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SUPREME COURT OF THE UNITED STATES.

No. 210.

ALFRED WINSOR & AL., CLAIMANTS OF THE STEAMSHIP CITY OF NEW YORK, APP'TS,

vs.

JUDAH BAKER & AL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MASSACHUSETTS.

INDEX.

	Original.	Print.
Libel	2	1
Warrant and monition, and return	6	5
Stipulation for costs	6	5
Claim	6	6
Stipulation to the action	7	6
Agreement as to sureties	7	7
Warrant to deliver	8	7
Answer	8	7
Testimony on the part of libellants	11	10
Deposition of Uriah B. Fisk	11	10
" Luther Fisk	17	14
Testimony on the part of respondents	22	19
Deposition of Seleck H. Matthews	22	19
" Alexander Shaw	27	23
" Bradford Reardon	30	25
" James C. Shockley	33	28
" Robert Cochran	36	31
" Obed Baker	39	33
" Thomas Howlett	43	37
" Michael Murphy	48	40
" Samuel Morris	50	42
" Augustus Crowell	53	44
Decree	55	46
Appeal claimed and allowed	56	47
Additional testimony of libellants	58	47
Deposition of Daniel Baker	58	47

GIDEON, Print.

	Original.	Print.
Deposition of Freeman Baker	59	48
" Luther Studley	61	49
" Elihu Kelly	62	51
" Cyrus T. Fuller	64	52
" Francis B. Crowell	66	53
" Griffith Morris	67	55
Additional testimony of respondents	70	57
Deposition of Alpheus Baxter	70	57
" Richard Ryder	72	59
" Solomon Howes	74	60
" Peleg Howes	75	61
" Jeremiah Schellinger	77	63
Final decree circuit court	79	64
Claim and allowance of appeal, &c	80	65
Clerk's certificate	81	65

UNITED STATES OF AMERICA,
Massachusetts District, ss.

At a circuit court of the United for the first circuit, begun and holden at Boston, within and for the district of Massachusetts, on Friday, the fifteenth day of October, in the year of our Lord one thousand eight hundred and fifty-eight.

Before the Honorable Nathan Clifford, associate justice.

JUDAH BAKER et als., Libellants and Appellants,
against
THE STEAMSHIP "CITY OF NEW YORK," HER TACKLE, &c., Alfred Winsor, claimant.
} In Admiralty.

The transcript of the record of the district court is as follows, namely:

UNITED STATES OF AMERICA,
Massachusetts District, ss.

At a special district court of the United States, holden at Boston, within and for the district of Massachusetts, on Wednesday, the ninth day of December, A. D. one thousand eight hundred and fifty-seven, before the Honorable Ashur Ware, judge.

JUDAH BAKER et als., Libellants,
versus
THE STEAMSHIP "CITY OF NEW YORK."

The libel, in this case, was filed in court on the third day of October, A. D. 1856, and is as follows, viz:

UNITED STATES OF AMERICA,
District of Massachusetts, ss.

To the Honorable Peleg Sprague, Judge of the District Court of the United States, within and for the district of Massachusetts:

The libel and complaint of Judah Baker, merchant, Augustus Peterson, water boatman, Charles H. Soule and George D. Arrington, sailmakers and partners doing business under the name and firm of Soule & Arrington, all of Boston, in said district, of Samuel Knight, of Charlestown, in said district, of Charles E. Daggett, of Falmouth, in said district, and of Uriah B. Fisk, Nathan Fisk, Luther Fisk, Elias Darling, Jacob Studley, Luther Crowell, Sears Crowell, Edward Crowell, Elnathan Crowell, Hiram Baker, Calvin Baker, Elbridge Baker, Julia Ann Crowell, Alex-

ander Baxter, Levi Crowell, William Garfield, Monteville Garfield, Hannah Crowell and Henry Fuller, all of Dennis, in said district, owners of the schooner "George Engs," of said Boston, whereof said Uriah B. Fisk lately was master, and her tackle, apparel and furniture, against the steamship "City of New York," also of said Boston, whereof S. Matthews is or lately was master, and her tackle, apparel and furniture, and against all persons lawfully intervening for their interest therein, in a cause of collision, civil and maritime.

And thereupon the said libellant and complainants allege and articulately propound as follows:

First. That in the month of December, in the year eighteen hundred and fifty-five, the said schooner "George Engs," whereof said Uriah B. Fisk was then master, was duly enrolled and licensed for the coasting trade, and was at the port of Philadelphia, in the State of Pennsylvania, and destined on a voyage from thence to the port of Boston, in the State of Massachusetts, having on board a cargo of corn, flour and iron, of the value of nine thousand dollars or thereabouts, and was at that time a staunch, tight and well built vessel of the burden of one hundred and thirty-three tons or thereabouts, and of the value of six thousand dollars or thereabouts, and was then completely rigged and sufficiently provided with tackle, apparel and furniture, and then had on board and in her service a full complement of men, to wit, six mariners, to navigate said schooner on the voyage above mentioned.

Second. That on or about the fifteenth day of said month of December, the said schooner, so laden, provided and manned, sailed from said port of Philadelphia, on her said voyage to Boston, and while proceeding therein in the accustomed way, steering about east-northeast, on the morning of the nineteenth day of said December, at about half-past three o'clock, off Montauk Point, she made a light off her weather bow, which proved to be on board of the said steamship "City of New York," whereof said Matthews was master, and which was bound from said Boston to said Philadelphia; that the weather and sky were perfectly clear when said steamship was first discerned as aforesaid, and she was then about five miles distant from said schooner, and coming out between Block island and Montauk Point, steering about southwest by south; that said schooner then kept off east, her course for Block island, to give the said steamship a wide berth; that said Luther Fisk, the mate of said schooner, who was then at her helm, discovered a short time afterwards, and when said steamship was nearly abreast of said schooner, that said steamship was turning or winding off towards said schooner, whereupon he immediately called all hands; that the said master of said schooner and said mate both shouted to the said steamship when she was four or five times her length off from said schooner and to the windward of her, to luff or keep her

course to the windward, so as to avoid and keep clear of said schooner, which said steamship might with great ease and entire safety have done, and which she ought to have done, but which she neglected and refused to do; that then, immediately before the instant of the collision, for the purpose of saving the lives of the people on board of said schooner, the said mate put up her helm and let her off one or two points; and that notwithstanding these efforts and every effort that could be made on the part of said schooner to keep clear of said steamship, and notwithstanding it was the duty of said steamship, and a duty which she might easily and safely have performed and ought to have performed, to keep clear of said schooner, said steamship, with great and overwhelming force and violence, and carelessly and negligently, ran foul of the said schooner, struck her own bow square against the larboard and windward quarter of said schooner about ten feet from her taffrail, and so damaged and disabled said schooner, that she sank with everything on board of her except said mariners, in about fifteen minutes after said collision.

Third. That at the time the said collision happened, it was impossible for said schooner to get out of the way of said steamship, by reason of the rapidity with which said steamship came down upon her; that said steamship had a wide berth to the windward of said schooner, and might easily and safely and ought to have kept clear of the said schooner in that direction; that from the moment when said steamship was first seen from said schooner, every reasonable and proper effort was made by said schooner's officers and crew to keep clear of said steamship, and that but for the negligence of the captain and crew of said steamship, said damage to said schooner would not have occurred.

Fourth. That said schooner, before and at the time of said collision, was a tight, strong, and staunch vessel, of the value of six thousand dollars or thereabouts; that the libellants were then, and still are, the lawful owners of the same, and of her tackle, apparel, and furniture; that by contracts made by the said libellants with the shippers of said cargo, at and before the shipment thereof on board of said schooner, the said libellants would have been entitled to receive from the consignees of said cargo, upon the delivery thereof, in as good order and condition as it was when received on board of said schooner to them at Boston aforesaid, the sum of five hundred and fifteen dollars, or thereabouts; that said libellants were prevented from so delivering the said cargo and earning said freight by the negligent management of said steamship, and the consequent collision hereinbefore set forth; and that, by reason of said collision, said libellants have suffered a total loss of said schooner, and her tackle, apparel, and furniture, and of said freight and damages, to the amount of six thousand five hundred and fifteen dollars.

Fifth. And the said Uriah B. Fisk and the said Luther Fisk do further, on their own behalf, allege, that at the time of said collision, each of them had on board of said schooner a quantity of wearing apparel of the value of one hundred and fifty dollars, or thereabouts, and that, by reason of said collision, they suffered a total loss of said apparel and damages to the amount of one hundred and fifty dollars each.

Sixth. And all the said libellants and complainants do allege further, that all and singular the premises are true, and within the admiralty and maritime jurisdiction of this honorable court; in verification whereof, if denied, they crave leave to refer to the depositions and other proofs to be by them exhibited in this cause.

Whereof the libellants pray that process in due form of law, according to the course of courts of admiralty and of this honorable court in causes of admiralty and maritime jurisdiction, may issue against the said steamship "City of New York," her tackle, apparel and furniture, and that all persons having or pretending to have any right, title or interest therein may be cited to appear and answer all and singular the matters so articularly propounded, and that this honorable court would be pleased to pronounce for the damages, and to decree such other and further relief to the libellants as shall to law and justice appertain; and also to condemn the said steamship, her tackle, apparel, and furniture, and all persons intervening for their interest therein, in costs.

URIAH B. FISK,
LUTHER FISK,
Libellants.

September 30th, 1856.
Sworn to before me.

S. E. SPRAGUE, *Clerk.*
JUDAH BAKER.

AUGUSTUS PETERSON,
CHARLES H. SOULE,
GEORGE D. ARRINGTON,
SAMUEL KNIGHT,
CHARLES E. DAGGETT,
NATHAN FISK,
ELIAS DARLING,
JACOB STUDLEY,
LUTHER CROWELL,
SEARS CROWELL,
EDWARD CROWELL,
ELNATHAN CROWELL,
HIRAM BAKER,
CALVIN BAKER,
ELBRIDGE BAKER,

JULIA ANN CROWELL,
ALEXANDER BAXTER,
LEVI CROWELL,
WILLIAM GARFIELD,
MONTEVILLE GARFIELD,
HANNAH CROWELL,
HENRY FULLER,
By their attorney, CHAS. W. STOREY.

CHAS. W. STOREY & JOHN W. MAY,
Proctors for Libellants.

Thereupon, by order of the judge, a warrant and monition issued, commanding the marshal to give notice to all persons concerned that said libel had been filed, and that trial would be had thereon at a special district court, to be holden at the United States court-house in Boston, in said district of Massachusetts, on Friday, the seventeenth day of October, A. D. 1856, at ten o'clock a. m.; and to give said notice by advertising the same in the Daily Advertiser, one of the public newspapers printed at Boston, and by posting a copy of the same notice at the said court-house in Boston ten days at least before said day of trial; and to take the said steamship and her tackle, apparel and furniture, into his custody; and to make due return of his doings.

On which the marshal made return, viz:

UNITED STATES OF AMERICA,
Mass. Dist. ss.

BOSTON, *Oct.* 8, 1856.

Pursuant hereunto, I have given notice to all persons concerned that the libel within named has been filed, and that trial will be had thereon, by publishing the substance of the within monition in the Boston Daily Advertiser, a newspaper printed in Boston, in said district, and by posting up a copy of the same notice in the U. S. court-house, in said Boston, ten days at least before the day within named for trial, and on the seventh day of October, 1856, I took the steamer "City of New York" within named, her tackle, apparel, and furniture, into my custody on this warrant.

WATSON FREEMAN,
U. S. Marshal.

Then personally appeared Alfred Winsor, of Brookline, in the district of Massachusetts, claimant of said steamship, and produced for surety Edward S. Tobey, of Boston, Massachusetts; and the said Winsor and Tobey, submitting themselves to the jurisdiction of this court, bound themselves, their heirs, executors and administrators, jointly and severally, in the sum of two hundred dollars, unto the said Baker et als., that the said Winsor should pay all costs and expenses which should be awarded against him in this

suit upon the final adjudication thereof, or by any interlocutory order.

And on the eighth day of October, A. D. 1856, the following claim was filed in court, viz:

To the Honorable Peleg Sprague, Judge of the District Court of the United States for the district of Massachusetts:

Alfred Winsor, of Brookline, in said district, part owner of the steamer "City of New York," her tackle, apparel and furniture, and agent for the other owners of said steamer, intervening for the interest of all the owners in the said steamer "City of New York," her tackle, apparel and furniture, appears before this honorable court, and claims the said steamer, her tackle, apparel, and furniture, and states that he is a part owner thereof, and that he is duly authorized by the other owners thereof to put in a claim in their behalf to the said steamer in this suit.

And thereupon he prays that this honorable court will be pleased to decree a restitution of the same to him, as part owner, and as the agent of the other owners, and otherwise right and justice to administer in the premises.

ALFRED WINSOR.

THAXTER & BARTLETT,
Proctors for Claimants.

October 8, 1856.

Sworn to before me.

S. E. SPRAGUE, *Clerk.*

Then again personally appeared Alfred Winsor, the claimant of said steamship, and produced for surety the said Edward S. Tobey.

And the said Winsor and Tobey, submitting themselves to the jurisdiction of this court, bound themselves, their heirs, executors and administrators, jointly and severally in the sum of ten thousand dollars, unto the said Baker et als., that the said Winsor should abide by all orders and decrees interlocutory or final of the court, and should pay the amount of the final decree of the court, and all sums of money that he should be ordered to pay by the final decree of the court, whether it be in this or any appellate court.

And at the time of entering into the foregoing stipulations, the following agreement that sureties were satisfactory was filed in court, viz:

U. S. District Court, Mass. ss.—Oct., 1856.

JUDAH BAKER & al., owners of schr. "Geo. Engs," &c.,
vs.
STEAMSHIP "CITY OF NEW YORK."

The libellants in the above entitled cause hereby profess themselves satisfied with the stipulators and sureties offered by the respondents and their agents. Stipulation to be for $10,000.

CHAS. W. STOREY,
And JOHN W. MAY,
Proctors for Libellants.

Oct. 7, 1856.

Thereupon, by order of the judge, a warrant issued, directing the marshal to cause said steamship and appurtenances to be delivered to the claimant aforesaid.

On which the marshal made return, viz:

UNITED STATES OF AMERICA,
Massachusetts District, ss.

BOSTON, *Oct.* 8, 1856.

Pursuant to the within precept, I have caused the within named steamship to be delivered to the claimant within named, and have taken his receipt for the same as under.

F. WARREN, *Dept. Marshal.*

Boston, Oct. 8, 1856. Received from W. Freeman, marshal, in and for the district of Massachusetts, the within named steamship "City of New York" and appurtenances, in the same state as when seized and detained by his deputy.

ALFRED WINSOR,
Part owner and agent.

And on the 29th day of November, 1856, the following answer was filed in court, viz:

Massachusetts District.—In Admiralty.

The answer of Alfred Winsor, part owner and claimant of the steamship "City of New York," in behalf of himself and the other owners of said steamship, to the libel of Judah Baker, Augustus Peterson, Charles H. Soule, George D. Arrington, Samuel Knight, Charles E. Daggett, Uriah B. Fisk, Nathan Fisk, Luther Fisk, Elias Darling, Jacob Studley, Luther Crowell, Sears Crowell, Edward Crowell, Elnathan Crowell, Hiram Baker, Calvin Baker, Elbridge Baker, Julia Ann Crowell, Alexander Baxter, Levi Crowell, William Garfield, Monteville Garfield, Hannah Crowell and Henry Fuller.

And now comes Alfred Winsor of Brookline, in said district, part owner and agent for the other owners of the steamer "City of New York," and for answer to the libel of the aforesaid libellants against said steamer, doth allege and propound:

First. That as to each and every allegation contained in the first article of the libel, this respondent has no knowledge, information or belief, and will require the libellants to prove the same, if material, except that he admits that said schooner was at the port

of Philadelphia, duly enrolled and licensed at the time, and was bound on the voyage and had on board a full complement of men as therein alleged.

Second. That as to the matters contained in the second article of said libel, this respondent has no personal knowledge, but he is informed and believes that the same are therein in great part untruly alleged and pleaded, and he does not admit any, and so far as he is informed, he denies each and every matter alleged and pleaded in said second article, except so far as the same may be hereinafter admitted; for the truth and fact was and is, and this respondent upon information and belief doth allege and propound, that said schooner sailed from Philadelphia for Boston, at the time alleged; that on the morning of the said nineteenth day of December, between three and four o'clock, the said schooner, bound from Philadelphia to Boston, was off Long island, near Montauk Point, steering on her course about east-northeast, having the wind between two and three points free, and so that she could keep her course; that said steamer was then near Montauk Point, bound from Boston to Philadelphia, and was steering about southwest by south on her course. That it was the duty of those having charge of said schooner to have kept her on her course, and not to have changed her course after they made said steamer, and that if said schooner had not changed, but had kept her course after making said steamer, she would have passed very far to the windward of said steamer; but that those having charge of said schooner, after they had made said steamer, and while they were bound to keep on their course as she was then sailing, changed the course of said schooner and kept her off more, and continued to keep her off more and more from the wind, until the collision occasioned thereby occurred. That the said schooner did not carry or show any light at the time, although it is usual and customary for vessels of that description to carry or show a light when on the course of said schooner, and that in consequence of the neglect of said schooner in not carrying or showing a light, she was not discovered by said steamer so soon, by several minutes, as she otherwise would have been, but that as soon as said schooner was seen from said steamer, the helm of the steamer was put to the starboard, for the purpose of keeping said steamer off, and of giving the said schooner more room, the officer in charge of said steamer at the time supposing said schooner would keep her course.

That shortly after the helm of the steamer had been put to the starboard, the schooner was observed to be changing her course, by being put off more from the wind, and that in consequence of her thus changing her course, it became apparent that there was danger of a collision, and thereupon the steamer's engine was stopped and reversed, and everything done on board said steamer which could be done to prevent the collision, but that before the

steamer could be stopped, a collision ensued, the bows of said steamer striking said schooner near her main rigging, and injuring her so much that she shortly afterwards sunk. That no shout or hail from said schooner was heard on board said steamer, if any was made, of which this respondent is ignorant, but that after the helm of said steamer had been put to the starboard, and the said schooner was observed to be changing her course as aforesaid, no change in the helm of said steamer could have been made, which would have prevented a collision.

And this respondent, upon information and belief, doth further allege and propound that said steamer at the time carried suitable and proper lights, and such as they were bound to carry, and kept a suitable and proper watch, and that as soon as said schooner was discovered, all proper steps and exertions were taken and made by those in charge of said steamer to prevent the collision; but that the said schooner neither carried nor showed any light, and after she had made said steamer, and while she ought to have kept her course, her course was changed, and she was kept off more and more from the wind until the collision occurred, and that by reason of this careless, negligent and improper management of said schooner, the said collision occurred, without any fault or negligence in the management of said steamer.

Third. That as to the matters alleged and pleaded in the third article of said libel, this respondent has no personal knowledge, but he is informed and believes that the facts in regard to said collision are as stated in his answer to the second article of said libel, and he denies, upon information and belief, each and every matter and thing in said third article alleged and pleaded.

Fourth. That as to the matters alleged and pleaded in the fourth article of said libel, this respondent has no knowledge, information or belief, except as to the allegation therein made. that said collision was consequent upon the negligent management of said steamer, which allegation this respondent upon information and belief denies.

Fifth. That as to the matters alleged and pleaded in the fifth article of said libel, this respondent has no knowledge, information or belief.

Sixth. That all and singular the premises are true, in verification whereof, if denied, the respondent craves leave to refer to the depositions and other proofs to be by him exhibited in the cause.

Wherefore the respondent prays that this honorable court would be pleased to pronounce against the libel aforesaid, and to con-

demn the libellants in costs, and otherwise right and justice to administer in the premises.

ALFRED WINSOR.

THAXTER & BARTLETT,
Proctors for Respondents.

CIR. CT. U. S., MASS. DISTRICT,
Nov. 29th, 1856.

Sworn to before me.

H. W. FULLER, *Clerk.*

Testimony on the part of the Libellants.

Deposition of Uriah B. Fisk, sworn to before C. P. Curtis, jr., esquire, a commissioner of the Circuit Court of the United States in and for the district of Massachusetts, at Boston, on the twenty-second day of November, A. D. 1856, and filed in this court on the twentieth day of November, A. D. 1857.

1. What is your name, age, and occupation?

Answer. My name is Uriah B. Fisk; my age is twenty-nine; I am a master mariner; I have followed the sea since I was twelve years old.

2. Were you at any time master of the schooner "Geo. Engs?" If so, state when, and where she sailed.

Answer. I was master of that schooner on her last voyage from Philadelphia to Boston. I left Philadelphia with her, about the fifteenth day of December, eighteen hundred and fifty-five.

3. When she was on her last voyage from Philadelphia to Boston, did she come in collision with any other vessel? If so, state what vessel, and who was master.

Answer. She came in collision with the steamer "City of New York," Capt. Matthews, on the nineteenth day of said December.

4. How many days out from Philadelphia, at what hour of the day or night, and at or near what place was the schooner at the time of the collision?

Answer. Five days almost; at half-past three in the morning, about three or four miles south to south-southwest from Montauk Point.

5. What was the state of the weather at the time, and was it dark or light?

Answer. It was as clear a night as I have ever seen. I don't know how it could have been any prettier night.

6. State what you know of the collision.

Answer. At twelve o'clock that night I went below, and the mate and his watch came on deck. The mate's name was Luther Fisk, and the man in his watch was named Robert. We were then pretty nigh to Long island, and I told the mate not to get her too nigh in. The wind was then just about north, so that we

were by the wind with our sheets chock aft, and a pretty scanty wind, so that we could just crawl along. We were heading east northeast. The wind was not quite steady; it luffed a little, so that sometimes we could head up a little more.

I never knew anything more till the mate came to the gangway and sang out to me, "the steamer's coming into us." I never stopped for any clothes, but jumped on deck, and the mate was then back at the wheel again, and hollering at the steamer as loud as he could holler, but she was so far off then, that I don't suppose she could hear. She was then five times her length off from us at that time, as nigh as I could judge. I could see her very plain and could see her turn off towards us, but I had no idea then she was coming into us, for I thought she would stop. I commenced hollering to them on the steamer, as soon as I got into the gangway, to keep their luff to windward; but they did not, but kept winding off towards us. She was then right up to windward of us, just about abreast of our quarter; this I know, for as I stood in the gangway on the larboard side, I saw her right straight to windward from there, so that she must have been a little aft of our beam.

Which way of us she was trying to go, I don't know, but I do know that she came right down on to us and struck the schooner ten feet from the taffrail, just about in the gangway where I had been standing. I ran right down again into the cabin, having staid in the gangway so long hollering at her, that I didn't have time to get forward before she struck. I had no idea she was coming into us, till she got chock on to us.

If the steamer had only stopped winding off, or stopped her wheels a second or a minute before, she would have gone clear of us, for with all her winding off, she only got on to us ten feet. She hit us right square bows on. I came up into the gangway again, just as soon as I could; I was down only two seconds, and jumped right on deck again. She was just then backing her bows out of us, where they had gone into us. We were loaded deep, and she was a good deal above us, and that prevented me from getting aboard of her. When she hit us so close to our stern, she slewed us right up alongside of her.

I sung out to them to heave us a rope, and they hove over two or three, and we got hold of them and were taken on board the steamer. I got damaged some between the steamer and the side of the schooner, and two of my crew who did not get aboard of the steamer by the ropes, were picked up by her boats.

The schooner sank in about ten minutes.

When I got on deck, after the mate hollered to me, he had got to the wheel again, but whether he kept her off any, I don't know and can't say, but she couldn't have been kept off any, by the way the steamer hit us.

If she had been kept off any, the steamer would have struck us right in the stern. Still I wouldn't say that she wasn't kept off any; but if she had, it would have made no difference, except where the steamer struck us. If the schooner did keep off, and the steamer struck us, as she did, then the only difference would have been, that the steamer would have hit us a little further forward, in case we hadn't kept off. What I mean to say is just this: After I came on deck, it wouldn't have made any difference what we did about being hit, whether we luffed or wound off, or kept a straight course.

Of course I can't say how the schooner was heading, before I came on deck; my orders before going below were, to keep her east-northeast till we came up to Montauk, or near it, but not to get too nigh in, and then east for Block island. I won't be certain about the order to steer "east," but I ordered him to steer for Block island.

7. Have you made trips from Philadelphia to Boston before; and if so, what course have you usually taken after you get off Montauk, or as near to it as you usually go?

Answer. (Mr. Thaxter objects to this question and answer as incompetent from the interest of the deponent and otherwise.)

I have made a great many trips from Philadelphia to Boston, I couldn't say how many—I dont't know but I have made a hundred. I have steered east from Montauk Point more than any other course.

8. How far could you see at the time of the collision?

Answer. I should think I could see a vessel that night five miles, and a steamboat farther.

9. (Objected to for interest.) What cargo was aboard, and what provisions, and what was the value of the provisions?

Answer. Fifty-six hundred bushels of corn; two hundred and fifty barrels of flour; eighty-five barrels corn meal; and seven or eight tons of iron. The flour was either two hundred and fifty or three hundred and fifty barrels. The provisions were a barrel of flour, a hundred and fifty weight of beef and other stuff, which I can't tell exactly; worth in all from forty to fifty dollars.

10. Was anything saved from the vessel?

Answer. Nothing, whatever.

11. (Objected to for interest.) Do you know what the freight amounted to, and what became of the freight list?

Answer. That and all the other papers were lost in the vessel. It amounted to five hundred and fifteen dollars and some odd cents.

12. How many men were on board, and their names?

Answer. Six, all told. The mate's name was Luther Fisk. The cook's name was Cooper. There was a seaman named Clark, and one named Robert, and one more called Jack. Including myself, that made the six.

13. Did you and the men lose their chests and clothes; and do you know the value of any or all? If so, state.

Answer. They lost them all, but I couldn't say what their value was, except what they said. I lost clothes and other articles, to the amount of one hundred and fifty dollars sure, besides twenty-five dollars in money, charts, spyglass and quadrant.

14. (Objected to for interest.) What was the condition of the schooner at the time of the collision, and what was her value?

Answer. She was nine years old; 133 tons measurement; and in as good order and condition as any vessel. She had a new suit of sails on that trip, except the mainsail, which had been on one trip previous. Her value was six thousand dollars, including tackle, apparel and furniture. We wouldn't have sold her for that at the time.

15. (Objected to.) Who were the owners of the schooner at the time of the collision?

Answer. The parties alleged in the libel were the owners at the time.

16. Was there any material change in the condition of the schooner after she sailed from Philadelphia, and before the collision?

Answer. No, sir.

And in reply to the following cross-interrogatories proposed by David Thaxter on behalf of the respondents, he replies as follows, viz:

1 X. You were asleep when the mate sung out to you as you have stated, were you not?

Ans. Yes, sir.

2 X. The first thing you saw when you came up the gangway was the steamer, was it not?

Ans. Yes, sir.

3 X. How far off was she then, three or five hundred feet, or more or less?

Ans. She was farther off than that. I should think she was one thousand feet off sure.

4 X. You did not come out of the gangway till after the collision, did you?

Ans. Yes sir, before.

5 X. How far out before the collision, and where did you stand?

Ans. I stood with one foot on the gangway and the other on the deck, hallooing.

6 X. You gave no orders to the mate or any one on board of your vessel, did you, after you came up?

Ans. No, sir.

7 X. Did you ever go in a steamer of any description, in any capacity?

Ans. Only as a passenger.

8 X. Have you not stated to any one, in substance, that if the schooner had not been kept off, the accident would not have happened, or words to that effect?

Ans. I don't recollect of telling anybody so.

9 X. Have you not stated to any one in substance that if you had been on deck the accident would not have happened, or words to that effect?

Ans. I have stated that I thought I might have done something different and avoided the accident, if I had been on deck, but that whether anything I might have done would have been of any use or not I couldn't say.

10 X. Where was the gangway, at the forward or after part of the house?

Ans. After part.

11 X. Was there any one of the crew in the cabin with you?

Ans. Yes, sir, the cook.

12 X. Where was the cook at the time of the collision?

Ans. He had come out and got on deck at the time she struck.

13 X. Who came out first, you or the cook?

Ans. I came out first.

14 X. How long after you was it before the cook came out?

Ans. It was while I stood in the gangway.

15 X. It was almost immediately after you came out, was it not?

Ans. He came up right up by me while I stood there, and it must have been very soon after. The cook was very deaf.

16 X. How far should you say the steamer was then from you?

Ans. That is more than I can answer; I shouldn't think she ought to have been more than two or three times her length off.

17 X. Did you see any of the rest of the crew before the collision?

Ans. None but the mate and cook. The others were forward.

18 X. What hails did you make to the ship?

Ans. I sang out sometimes, "Keep your luff to windward," and part of the time, "port your wheel," but mostly "keep your luff."

19 X. How was the schooner heading at the time, or don't you know?

Ans. By the looks of Montauk Point, I should say she was heading pretty near east, but I couldn't say within two or three points.

URIAH B. FISK.

Deposition of Luther Fisk, a witness on the part of the libellants, (Mr. Thaxter objecting to the competency of the witness, he being one of the libellants,) sworn to before C. P. Curtis, jr., esq., Commissioner, at Boston, on the eighth day of June, A. D. 1857, and filed in this court on the 20th day of November, A. D. 1857.

1. What is your name, age, occupation, and place of residence?

Answer. My name is Luther Fisk; my age is twenty-six; I follow the seas; and my place of residence is Dennis.

2. How long have you followed the sea, and what is now the capacity in which you are acting?

Answer. I have been to sea fourteen years; I am now capt. of the schooner "Hill Carter," 140 tons.

3. Were you on board the schooner "Geo. Engs" in the fall and winter of 1855, and in what capacity?

Answer. I was, as mate.

4. State whether you were on board the schooner "George Engs" at any time when she came in collision with the "City of New York;" if yea, when and where, and who else was on board?

Answer. I was on board of her at that time. The collision took place about half-past three o'clock in the morning, off Montauk Point—Montauk light bearing north. My brother, who was captain, the cook, whose name was Henry Cooper, a seaman named Clark, and another one named Cochran, and one more, whose name I cannot now recall; he was called Jack.

5. State as fully as you can how far off the steamer was when you first discovered her, and what happened after.

Answer. I think she was near five miles off when I first discovered her light; I first saw her bow light; I was at the helm myself, steering, and Robert Cochran was on deck; he was walking the main-deck. We were heading east by north at the time, and soon after that we made her quarter light. I kept the schooner off east for Block island, and continued that course until the steamer was nearly abreast of us, when I saw her lights suddenly change, and I saw she was coming down on to us, and I called all hands, and while the captain was coming up I hove the wheel up; but before we could alter our course but a very little, she was into us, and struck us within ten feet of the taffrail. We left her then as soon as we could leave her. She went down about fifteen minutes after the collision, and we got aboard the steamer.

6. What kind of a night was it?

Answer. It was clear moonlight; I think the wind was about north, not far from north, and about a six-knot breeze.

7. What hail, if any, was given?

Answer. The captain and myself both hailed the steamer several times to port her wheel.

8. Where was the steamer with reference to the schooner when you first saw her?

Answer. She was about three or four points on our weather bow.

9. Where was she when you saw her lights suddenly change?

Answer. She was on the port side, nearly abreast of us, perhaps a mile and a half from us; it is difficult to tell exactly in the night how far off she was.

10. (Objected to for interest.) How far could you see a sailing vessel of the size of the schooner "George Engs" at the time of the collision?

Answer. I should suppose four or five miles.

11. On which side of Block island did you keep off the schooner?

Answer. The south side.

12. What course was the steamer heading when you first saw her quarter light; and what was then the course of the schooner, and what were the courses of the respective vessels at the time of the collision?

Answer. I couldn't tell; I should think it was near southwest. The schooner's course was then east. At the moment of the collision we were heading about east-southeast, and the steamer about south or south by east.

13. Which quarter light did you first discover, and what course was the steamer holding when you were first able to discover her course, and how far off was she then?

Answer. The larboard quarter light. She was about two miles off when I was first enabled to distinguish the course she was holding. She was then steering about southwest. This might have been twenty minutes before the collision. In that time she would go three or four miles. She had to make considerable distance after the sudden change in her course.

14. How long after you made out her course before she changed it?

Answer. Well, I can't tell to a minute, but it was twelve or fifteen minutes; I couldn't tell exactly, because you couldn't count the minutes at that time. I know about what time it was when I first made the steamer, but after that I did not note the time again till I got aboard the steamer. The steamer hove her wheel hard a-starboard, and came down on to us. If she had kept her course, she would have gone a mile clear of us—on the larboard side of us.

15. After you put the schooner off east for Block island, when did you next change her course?

Answer. Not until the steamer was within three or four lengths of us.

16. What was then the change, and why?

Answer. I was in hopes I might keep the schooner off enough to make the steamer strike us in the stern, for I knew if she struck us midships she would go right through us. The schooner fell off a couple of points or so.

17. What kind of a night was it—clear or hazy, and was the sea smooth or rough?

Answer. It was very clear—no haze, and quite smooth.

18. Who was at the helm from the time you discovered the steamer till the collision?

Answer. I was myself; it was my watch.

In reply to the following cross-interrogatories proposed "de bene esse" by David Thaxter, esq., on behalf of the claimants, (under objection to the witness as being a party,) he replies as follows:

1 X. You are one of the libellants in this case, and are one of the part owners, are you not?

Answer. Yes, sir.

2 X. How far were you from Montauk Point when you first saw the steamer's light?

Answer. Well, I should think we were about three or four miles.

3 X. How far were you from it at the time of the collision?

Answer. Well, we were not far from the same distance—to the southward of it. We were in nine fathoms of water. We were to the westward of the light when we first made the steamer.

4 X. What light did you first see—what colored light?

Answer. White light.

5 X. What other light did you see—what color?

Answer. A quarter light; I can't tell you the color, for I did not notice the color; but the way I knew it was the larboard quarter light was, that when she swung off she opened out the other one. When I first saw her quarter light, I couldn't tell which side it was, because I did not know which side which color was on.

6 X. How did your schooner steer, by wheel or helm?

Answer. By wheel; it was aft; all schooners' wheels are aft.

7 X. How was the steamer steering, when you say she was abreast of you, just before you say you saw her lights suddenly change?

Answer. Southwest, as near as I can tell.

8 X. How far off was she then?

Answer. Well, she might be a mile or a mile and a half when she first altered her course.

9 X. Do you mean to say that from the time you say you put your schooner off east, until after you had called the captain, no change was made in the course of the schooner?

Answer. Yes, sir; that is what I mean to say. I steered as straight as I could. It is impossible to steer a sailing vessel, when there is any breeze, as straight as a steamer, but I steered her as straight as I could for the south side of Block island, without alteration. [I did not apprehend any danger then.]

(This last line in brackets was inserted after the cross-examination had closed, by request of the witness.) (Objected to by Mr. Thaxter.)

10 X. Have you not stated in substance that when you saw the steamer you put off E. N. E., to give her more berth, and as she came nearer you put her off east, so that if you had kept your

course, and had not changed, you would have passed a mile to the westward of the steamer, or words to that effect?

Answer. No, sir; I have not said any such thing. East-northeast is as high as you can steer by Long island without going ashore—that is, the direction of the shore.

11 X. Have you not stated in substance that when you saw the steamer you kept the schooner off to give the steamer a wide berth, and that if you had not changed your course, you would have gone clear of her, or words to that effect?

Answer. No; I did not say that. I'll tell you what I did say: I said that if I had kept the schooner in close under Long island, by going as nigh the wind as she could lay, I should have gone astern of the steamer; but I had a right to keep any course I was a mind to, with a steamer as far off as that. I stated this in answer to a question put to me on board the steamer, after the collision, in the flurry of the moment, and it may have been asked by my brother, and perhaps by somebody else.

12 X. Do you mean to say that that is the only time, and all that you have said about the collision not having happened, if no change had been made in your course?

Answer. I mean to say that is all I have any recollection of saying. I have no doubt I have said that several times, but nothing more than that.

13 X. Have you not stated in substance that if you had kept your course, and not changed it, the collision would not have happened, and have you not so stated to various persons?

Answer. No, sir—to both branches—I have stated that it might not have happened. That is what I have said. There might have been a possibility of going clear, but I can't say about that.

14 X. How did you have the wind when the steamer struck you?

Answer. About a-beam—not far from a-beam.

15 X. Did your schooner carry or show any light?

Answer. No, sir. We did not consider it necessary on such a very light night.

16 X. Where is your home, and since the collision have you not been here in the State frequently, and has not your brother, the captain, been here frequently?

Answer. My home is in West Dennis. Since the collision I have been in this State frequently. I am running in a line from Philadelphia to Boston. My brother has been here frequently; he lives also at West Dennis.

17 X. How long did you remain at home after the collision?

Answer. About six weeks.

Re-examination, by J. W. May, Esq., Proctor for Libellants.

D. R. 1. When you say the wind was not far from a-beam, do

you refer to the exact moment of the collision, or to the time when you changed her course, so as to ease the blow?

Answer. Well, there was only two points difference, any how.

D. R. 2. When you have stated, that if you had not changed your course, the collision might not have happened, to which change do you refer, the change when you first discovered the steamer, or the change just before the collision? (Objected to.)

Answer. The change when I first discovered the steamer.

D. R. 3. Would you have had to change your helm any to keep the schooner close in to Long island; and if so, how? (Objected to.)

Answer. I should have had to luff her.

D. R. 4. What do you mean by saying in your answer to ninth cross-interrogatory, you did not then apprehend any danger from the steamer? (Objected to.)

Answer. I mean to say that I thought she was far enough to windward to go clear of us, which she would have done had we both kept our courses, as we were when we first made the steamer.

D. B. 5. What was the condition of the schooner at the time of this collision; was all the cargo on board that she took in at Philadelphia, and was anything saved? (Objected to for interest.)

Answer. She was in very good condition. All the cargo taken in at Philadelphia was on board. Nothing was saved.

LUTHER FISK.

Testimony on the part of the Respondents.

Deposition of Seleck H. Matthews, taken before C. P. Curtis, jr., esq., Commissioner, at Boston, on the fourteenth day of October, A. D. 1857, and filed in court on the 20th day of November, 1857.

1. What is your name, age, and occupation, and how long have you been engaged in your said occupation?

Answer. Seleck H. Matthews; my age is thirty-eight; my occupation is master mariner; I have been master mariner since 1843.

2. How long have you been master of any, and what steamers?

Answer. I have been master of the steamer "City of New York" three years and a half, and of the "Phineas Sprague" three months.

3. Whether or not were you master of the steamer "City of New York" at the time of her collision with the schooner "Geo. Engs?"

Answer. I was.

4. State what you first knew of it, whose watch it was on deck at the time, where you were when you first knew of it, and all you did. State fully.

Answer. It was the second mate's watch on deck, from twelve to four. I was turned in when I first heard the racket. My stateroom is on deck, in the forward part of the cabin, close to the door. I first heard a crash; I jumped out, and finding the engine turning

back, stopped it; before I gave the order to stop the engine, I saw the schooner right under our bow; I gave the order to stop the engine, so that we might save the people, and not back away from the schooner.

5. How long after you heard the crash was it before you were out on deck? State what you had to do to get out.

Answer. It might have taken me half a minute. I had no clothes to put on, and I had only to jump out of my state-room on to the deck; the engine-room was about eight feet from my door.

6. Whether or not after the collision took place, you heard the mate of the schooner make any, and what statement, as to how the collision occurred?

Answer. The first conversation I had was with the mate, I believe; the mate and captain were both there, but the mate made the replies. I asked him how he came to get across our bows, and he said he thought we were coming in the opposite direction from what he was coming up Long island shore; it is so long ago that I can't give the words, but the substance was that he said he kept off to go to the leeward of us, and got across our bows; he said that he was altogether in the fault, and supposed he should be blamed for it; that was about all the conversation I had with him; I don't recollect his giving any reason why he put off; there was some conversation between the captain and mate and his men on board the steamer after the collision; some of the men and the captain were finding fault because they were not called before the collision; I don't recollect that the mate made any reply.

7. Whether or not was it in any, and what degree, necessary for the watch on the look-out on board of the steamer "City of New York" to be on the forecastle? State how high the bulwarks of the steamer are, and how high the forecastle is. (Objected to.)

Answer. There was no need of having a man on the forecastle; the bulwarks might be two feet eight inches high, and the topgallant forecastle about three feet above the deck; a man standing on the deck could see over all.

8. State why men on the look-out are placed on the forecastle of vessels, and whether or not a person on the deck forward of the steamer "City of New York" standing by the bulwarks, could or could not see as well as though he was on the forecastle?

Answer. Men are usually placed on the forecastle, because the bulwarks of ships are generally so deep that they have to be on the topgallant forecastle to see over the bows; a man standing forward on the deck of the steamer "City of New York" could see just as well as if he were on the forecastle.

9. Whether or not was the moon up or down, when you came out after the collision?

Answer. The moon was down.

10. Is the steamer "City of New York" a side-wheel boat or a propeller; what is her size and length?

Answer. She is a propeller; she is 575 tons; she is one hundred and seventy-six feet long over all.

11. What lights did she carry at the time of the collision?

Answer. She had three lights; I saw them before I turned in, and after I came out on deck; she had a white light forward at the mast-head, a green light on the starboard quarter, and a red light on the larboard quarter.

12. (Objected to.) Suppose the steamer "City of New York" to be going either eight or ten knots or more per hour, and while thus going her wheel to be hove hard a-starboard, and the steamer to have commenced swinging off in obedience to her helm, and suppose her engine to have been then and while thus swinging off stopped, what effect would be produced upon her by putting her helm hard a-port, or by making any other change in her helm, after the engine was stopped?

Answer. Not any; when the propeller is stopped, and is dragging through the water, it makes an eddy round about the rudder, which deprives the rudder of all power over the vessel; in coming into the dock here in Boston, we can't do anything with the rudder after the engines are stopped.

13. (Objected to.) Suppose her engine to have been reversed under the circumstances stated in the last interrogatory; what effect would a change in her helm then have made?

Answer. It would make a little change by forcing the water against the rudder, which will sheer her stern a little; so that while backing, the rudder operates in exactly the reverse manner in which it usually does when going ahead.

14. (Objected to.) Suppose the state of facts stated in the answer to the 4th interrogatory, in the deposition of Bradford Reardon, to be true; state whether or not, at the time when it was stated in these facts, which you are to suppose to be true, that the order was given to stop the engine, any other and what order could or should have been given which would have prevented the collision, or rendered it in any degree less likely to happen?

Answer. Not any. I should stop the engine. No change of the helm at that time would have affected the vessel sufficiently to have prevented the collision.

15. (Objected to.) Suppose the state of facts to be as was supposed in the last question; what ought to have been done at the time when the order was given to stop the engine?

Answer. I should have given the same order, i. e., stop the engine. That is always the surest thing to do.

16. Suppose the steamer "City of New York," while going 6 or 8 or 10 knots through the water, had her helm put hard a-starboard, and suppose her then to swing off one, two, or three points,

in obedience to the helm, how soon could a change in her helm, by putting it hard a-port, affect her?

Answer. Propellers are very slow in their helm, and it would depend on the distance you give her to get back on her course. I should think she would have to go half a mile to get back on to her course, after having changed her course three points; this is supposing her to be going ten knots.

17. State whether the steamer "City of New York" and other propellers mind their helm as quickly as a sailing vessel, and describe the difference, and the cause of it.

Answer. They do not. One reason is that their whole motive power is in their stern. In sailing vessels they turn on a pivot under the mainmast. Side-wheel steamers are a little better in this respect than propellers.

And in reply to the following cross-interrogatories, proposed by J. W. May, esq., he replied as follows, viz:

1 X. Have you read any depositions in this case, or any parts of depositions, yesterday or to-day, before coming to be examined as to this matter? If so, state which.

Answer. I had just commenced reading Mr. Reardon's deposition, and had read about four lines, when I was called to give my deposition. That is all I have read.

2 X. Where were you from Montauk light when you were awakened by the crash, and how far?

Answer. About south by east, and about five or six miles off.

3 X. You don't pretend to be able to state the conversation which took place at the times you mention exactly as it was, or only your impressions?

Answer. What I have stated, was said, but I don't think I have got the whole of it.

4 X. Please to repeat what was said.

Answer. When I asked the mate how he came to do it, he said he thought we were coming up the shore in the opposite direction from them, and he kept her off, and came across our bow. He said he was in fault, and he supposed he should be blamed for it. There was also some conversation between the captain, mate, and the crew, complaining about not having been called before the collision. The cook said they were not called, and the stern of the steamer was into his berth before he left it, and that his berth was in the cabin along with the captain's.

5 X. You do not mean to say that what you relate was all that was said, but the substance of what you recollect?

Answer. Yes, sir, the substance.

6 X. When was your attention first called to this conversation?

Answer. Several spoke to me about it. I can't recollect when I first repeated it. I may have mentioned it a hundred times.

7 X. State all who were present at these conversations.

Answer. I think the steward of the steamer was there, and their own crew were all there. I don't recollect any of my officers being there.

8 X. Did any other person than the cook complain of not having been waked? if so, state who.

Answer. Yes, sir; the captain, and two men who were in the forecastle.

9 X. Can you state the language used by either?

Answer. I can state the language of one of the seamen, the fellow who had his collar-bone broken—I don't know his name; he said that if the mate hadn't been a d——d fool, and had called all hands, it wouldn't have happened. It was a rough sailor phrase, and probably didn't mean much of anything.

10 X. To whom was the remark addressed?

Answer. To the captain and mate; and to the mate mostly, for not calling him.

SELECK H. MATTHEWS.

Deposition of Alexander Shaw, taken before C. P. Curtis, jr., esq., Commissioner, at Boston, on the fourteenth day of October, A. D. 1857, and filed in court on the 20th day of November, A. D. 1857.

1. State your name, age, residence and occupation, and how long you have followed the same.

Answer. My name is Alexander Shaw; my age is 44. I am a pilot, and have been a pilot on the Delaware river for four and twenty years.

2. Whether or not you were on board of the steamer "City of New York" at the time of the collision with the "George Engs," and in what capacity, and how long have you run in her in that capacity?

Answer. I was in her at that time as pilot, and had been in her then about two months. I have been in her ever since, with the exception of last summer. Each one of that line of steamers carry a Delaware pilot with them.

3. State what you first knew of it; whose watch it was on deck; where you were when you first knew of it, and all you did. State fully.

Answer. The first I knew of it, I heard the crash, or a noise. I was sleeping on the starboard side of the cabin on deck. I went right out on deck. When I got on deck, the schooner was lying under the steamer's larboard bow. I looked over the side, and saw two or three men trying to get aboard by a rope.

4. How long after you heard the crash was it before you were out on deck? State what you had to do to get out.

Answer. I should think it was inside of a minute. I had pan-

taloons on and put no other clothes on. I stepped right out of my state-room into the cabin, and then out of the cabin on to the deck.

5. Whether or not, after the collision took place, you heard the mate of the schooner make any, and what statement as to how the collision occurred? State fully.

Answer. I did not at that time. After we got to Philadelphia, I got into conversation with him, while lying at the wharf, concerning the collision. He and his brother and I were all talking together, and he said that they did not think we were a steamer when he first made our light, because he expected not to meet any of our steamers at that time—for he supposed one had already passed our way, and the other had not reached as far as Long island yet. Not thinking that the light he saw was a steamer, he kept his schooner off, supposing it was a vessel standing to the westward up along Long island. He said if he hadn't altered and kept off, the accident would not have occurred. That was about all the conversation I had with him, I believe, but it was so long ago, that I can't hardly recollect anything about it.

6. Whether or not was it any, and what degree necessary for the look-out on board of the steamer "City of New York" to be on the forecastle? State how high the bulwarks of the steamer are.

Answer. The bulwarks are about three feet above the deck, and the forecastle is about the same. It lies on the upper rail. There was no necessity for a man to be placed on the forecastle; for it was so small that a man couldn't stay on it, if there was any sea. It was a mere platform about four feet wide, and eight feet long, put there to accommodate the fore staysail. Our look-out was always put on the deck forward between the foremast and the topgallant forecastle, and could see as well as if on the forecastle—he could see everything that was going on.

7. Whether or not, was the moon up or down, when you came out after the collision?

Answer. It was down; and had been down, I presume, about half an hour.

8. (Objected to.) Suppose the steamer "City of New York" to be going either eight, ten or more knots per hour, and while thus going, her wheel to be hove hard a-starboard, and the steamer to have commenced swinging off in obedience to her helm, and suppose her engine to be then, and while thus swinging off, stopped; what effect upon her would be produced by putting her helm hard a-larboard, or by making any other change in her helm after the engine was stopped?

Answer. None at all, because the rudder is abaft the propeller, and as soon as you stop the propeller, there is nothing but dead water then, and she won't steer.

9. Suppose her engine to have been reversed under the circumstances stated in the last interrogatory; what effect would a change in her helm then have made?

Answer. Reversing the screw has the effect of reversing the effect of the rudder, if it has any effect—that is, when she has stern away.

10. Suppose the state of facts stated in the answer to the fourth interrogatory in the deposition of Bradford Reardon to be true; state whether or not, at the time when it is stated in those facts (which you are to suppose true,) that the order was given to stop the engine, any other and what order could have been given which would have prevented the collision, or rendered it any, and what degree less likely to have happened?

Answer. If the boat had been under my charge in the Delaware, I should have stopped the engine. It was of no use to alter the wheel, for she would have been into the schooner before the steamer would have changed her course.

11. State whether the steamer "City of New York," or other propellers, mind the helm as quickly as a sailing vessel; and describe the difference and the cause of it.

Answer. No, sir, they do not; when they are going through the water fast, under full head of steam, it takes two men to throw the wheel hard to starboard or port; in a sailing vessel it takes half a man, for the sails help steer.

12. Whether or not did you hear the cook of the schooner make any, and what statement, about the collision?

Answer. I heard him say that before he got out of his bed, the steamer's stern was in bed with him.

And in reply to the following cross-interrogatory proposed on behalf of the libellants, by J. W. May, esq., he says:

1 X. Are you and Capt. Seleck Matthews still in the employ of the owners of the steamer "City of New York?"

Answer. Yes, sir, we are in the same employ.

ALEX'R A. SHAW.

Deposition of Bradford Reardon, taken before C. P. Curtis, jr., Commissioner, at Boston, on the 27th day of February, 1857.

1. What is your name, age, residence, and occupation? How long have you followed the same?

Answer. My name is Bradford Reardon; my age is thirty-five; I follow the seas, which I have done for about twenty years.

2. Whether or not were you attached to the steamer City of New York in December, 1855; and if yea, in what capacity, and how long had you been attached to her, and in what capacity?

Answer. I was second mate of her; I had been second mate of her four years.

3. Whose watch was it on deck of the steamer at the time she

came in collision with the schooner George Engs, on the morning of the 19th of December, 1855?

Answer. My watch.

4. State where, and on what course the steamer was sailing, when the schooner was first made from the steamer; state who first made her, how far she was from you, what her course was, and all that occurred from then to the time of the collision.

Answer. We were about three miles southeast from Montauk Point; we were sailing southwest by south; the man on the look-out first gave the report of a sail on the starboard bow; that was about half-past three in the morning. The helm of the steamer was put a-starboard. When the report was given, I was amidships, and I turned round and walked forward, and when I got forward I saw the schooner; she bore about southwest from us—about a point on our starboard bow; she was about half a mile off. She appeared to be going about east-northeast, but I couldn't see distinctly enough to tell which way she was going—that is, I couldn't tell whether she was going from us or coming towards us. Had she been going from us, her course would have been about west-southwest. The wind was north-northwest at the time. As soon as I saw her I ordered the helm to be put hard a-starboard, and after that I noticed that the schooner had altered her course more to the eastward.

When I saw that, I ordered the engineer to stop the engine, because I saw that we were coming together. About two minutes after the engine stopped, we struck her; we hit her on her quarter, and at that time the schooner was heading about southeast. The steamer had then altered her course about three points, in consequence of the helm having been starboarded, making her course then about south. We hit her about twenty foot forward of the taffrail, about half way from her mainmast aft, and she sunk in about twenty minutes.

5. What look-out, if any, had you on board the steamer at the time the schooner was made?

Answer. There were two men forward; one on the look-out, and the other so as to be called if wanted. The look-out man was stationed on the topgallant forecastle; the man was not there then, but he was where he could see everything ahead. He was standing leaning against the bulwark, just by the starboard cat-head, looking over the rail. His name is Thomas Howitt.

6. Whether or not did the schooner at the time carry or show any light?

Answer. She did not.

7. (Objected to.) How much sooner could you have seen the schooner if she had carried a light?

Answer. Ten minutes.

8. Whether or not did the steamer carry any, and what lights, and where were they placed?

Answer. She carried three, sir—a white light at the foremast head, a red light on the larboard quarter, and a green light on the starboard quarter.

9. (Objected to.) If the schooner had kept her course, and not changed it after you saw her, what, if anything, would have happened?

Answer. Both vessels would have gone clear.

10. (Objected to.) After you say you saw that the schooner had changed her course, what more, if anything, could have been done to prevent the collision than was done on board the steamer?

Answer. Nothing.

11. (Objected to.) Whether or not could any, and what change, have then been made in the helm of the steamer which would have prevented the collision?

Answer. No, sir.

12. About where was the schooner when the steamer struck her?

Answer. She was about three miles, or three and a half miles, from Montauk. Montauk Point bears about northwest from us; I could not tell exactly, as I did not set the light.

13. Whether or not did the schooner alter her course more than once, and if so how many times, after you say you first saw she altered her course?

Answer. She altered her course twice after we first saw her; more to the southward both times.

Cross-interrogatories.

X 1. Have you any interest in the steamer?

Answer. No, sir.

X 2. How long had you been on the watch when you heard the report?

Answer. I had been on the watch since twelve o'clock.

X 3. Do you remember what was the report?

Answer. "A sail on the starboard bow."

X 4. Had you seen the man on the look-out for a few minutes before you heard the report?

Answer. I did, sir.

X 5. Where was he?

Answer. Forward of the windlass, by the starboard rail.

X 6. How long after you last saw him before you heard the report?

Answer. Two minutes; every time I walked forward I could see the man.

X 7. After you heard the report, did you go forward to the place where the man on the look-out stood?

Answer. No, sir, I didn't go so far forward as that.

X 8. How far forward did you go?

Answer. As far as the galley, up to the man at the wheel, and a little forward of him, to speak to him.

X 9. Did you there see the schooner for the first time?

Answer. Yes, sir.

X 10. How long after you discovered the schooner before you ordered the helm to the starboard?

Answer. A few seconds; not long; just as quick as I could.

X 11. When you struck the schooner, did you strike her head on?

Answer. A little quartering, sir.

X 12. How many knots were you going at the time of the collision?

Answer. About ten.

X. 13. How long after you ordered the helm to starboard, before you ordered the engine to stop?

Answer. Not over a minute; a short time. It was too long ago for me to remember exactly now. I think it must have been more than a minute.

X 14. How much more?

Answer. About two minutes.

Direct Examination resumed.

X. Whether or not did you hear any hail from the schooner?

Answer. I did not.

BRADFORD REARDON.

Deposition of James C. Shockley, taken before Jared Ingersoll, Commissioner, at Philadelphia, on the 23d day of March, 1857.

1. What is your name, age, residence, and occupation, and how long have you followed the same?

Answer. My name is James C. Shockley; I was born on the 7th of November, 1824; I reside at No. 20 Wheat street, in the city of Philadelphia; my occupation is that of engineer, and I have followed such occupation over twelve years, and made it my study during that time.

2. Whether or not have you been employed as engineer on board steamers for any and how long a period?

Answer. I have been employed as engineer on board of steamers during most of those twelve years. It has been my business to be an engineer on sea or river steamers for that time.

3. Whether or not you were employed in any and what capacity on board the steamer "City of New York," in December, 1855, at the time of her collision with the schooner "George Engs?"

Answer. I was first assistant, or second engineer—they are both the same thing—on board the steamer "City of New York," in

December, 1855, at the time of her collision with the schooner called the "George Engs."

4. Just previously, and at the time of the collision, who had charge of the engine, or who was running the steamer's engine?

Answer. For some three hours previous to the collision and just previously, and at the moment of the collision, I had charge of the engine and was running it.

5. Whether or not before the steamer actually struck the schooner, had anything, and what, been done about stopping the engine, and by whom and by whose orders?

Answer. Just before the steamer actually came in collision with the schooner, I received the order by word of mouth from the second mate down the skylight, which is immediately over my head, to "stop the engine."

6. How long before the vessels came together was it that you received the order to stop the engine?

Answer. To the best of my judgment it was about a minute before the collision that I received the order to "stop." I just had time to close the throttle-valve.

7. State what you did upon receiving this order, and how quickly you worked.

Answer. I shut the throttle-valve immediately upon receiving the order to stop. I unhooked the engines and threw the bars into the back motion and opened the whole-stroke valve. That was all done in a very short time, as everything was very handy for quick work. At the moment of receiving the order, I was seated close to the throttle-valve and reached over to it at once to shut it. It is customary for us upon receiving the order to "stop," to prepare for the back motion, and on this occasion, judging from the quick way in which the order was given, that the order to "reverse" would immediately follow, I unhooked the engine and threw her into the back motion.

8. Whether or not could anything, and what, more have been done than was done from the time you first received the order to stop the engine until the vessels struck, which would have stopped and reversed the engine more quickly, so that the steamer's headway would have been less at the time of the collision than it was?

Answer. Nothing more could have been done by me after the order to "stop," to lessen the steamer's headway, because I know that the engine was stopped as soon as, under the circumstances, she could have been stopped.

9. Under what head of steam had the steamer been running prior and down to the time you received the order to stop her, and what was the usual and customary head of steam under which the steamer was run?

Answer. Our steam at the time varied from twenty to twenty-

two pounds, and the steamer was under that head of steam at the time I received the order to stop; that was our usual head of steam.

10. Whether or not did you see the schooner before the collision; where were you at the time the order was given to stop the engine, and where did you continue to be down to the time of the collision?

Answer. I did not see the schooner before the collision; I was sitting in front of the starting bars when I received the order to "stop." I was standing up holding the bars at the time of the collision, waiting for further orders.

11. How long had you been attached in the capacity of engineer, as you have stated, to the steamer "City of New York?" State when you joined her in that capacity, and when you left her, and what your present employment is?

Answer. I joined the steamer "City of New York" in the capacity of engineer in the month of August, 1855, as well as I can recollect. I left the steamer on the 17th of September last. I am not at present in any employment.

Cross-interrogatories.

1. How much time had you been in actual service as engineer on board steamers? What steamers; whether as first or second engineer; and what proportion of the time in each capacity at the time of the collision?

Answer. I had been in actual service on board of steamers as an engineer for about twelve years. I have been in the capacity of "first assistant," or "second engineer," on board the steamer "Star of the South," running from New York to New Orleans. I was in that capacity on the steamer "Columbus," of the Charleston line, and also on the steamer "Benjamin Franklin," of the New Orleans line. I was in that capacity on the steamers "State of Georgia," "Kennebec," and the "Penobscot." I was also engineer on board the steamer "Virginia," running from Philadelphia to Richmond, for thirteen months; and I had charge of the Erriccson line running between this city and Baltimore. I also took the steamer "Hornet" from here to Boston, and delivered her there. I was in capacity of second engineer or first assistant engineer on board all those steamers.

2. Was you first or second engineer on board the steamer "City of New York" at the time of the collision, and how much actual service in each capacity had you rendered?

Answer. As I stated before, I was first assistant or second engineer on board the steamer "City of New York," at the time of the collision. I had rendered actual service in that capacity for about twelve years.

3. What orders did you receive previous to and about the time of the collision? State them, if more than one, and the intervals

of time between them in the order in which they were received, as fully and explicitly as you can.

Answer. Previous to the collision I received the order to "stop," and this was the only order I received before the collision.

4. Are you sure you have stated all the orders you received?

Answer. Yes.

5. Did you execute them as they were received, and how soon?

Answer. I executed the order to "stop," as soon as it was received, and as quick as I possibly could. It took me less than a minute to stop the engine after receiving the order.

JAMES C. SHOCKLEY.

The plaintiffs object to the 8th interrogatory propounded by defendant as leading and as asking witness's opinion merely upon his own conduct.

Deposition of Robert Cochran, (a witness in behalf of respondents,) taken before C. P. Curtis, jr., esq., Commissioner, at Boston, on the 20th day of December, A. D. 1856, and filed in court on Nov. 20, 1857.

1. What is your name, age, and business; where do you reside?

Answer. My name is Robert Cochran; my age, I suppose, is 27; and I am a seaman; I was born in Ireland.

2. Were you a seaman on board the "George Engs" at the time of the collision with the steamer "City of New York?"

Answer. Yes, sir.

3. Whose watch was it between 12 and 4 o'clock in the morning, and who was on deck during that time?

Answer. It was the mate's. I was in his watch, and he and I were on deck during that time. I don't know if any of the others came on deck during the time.

4. Who first saw the steamer, and what had you been doing just previously?

Answer. I saw her first. It was after being relieved from the wheel and I went forward on the main deck. A few moments after I was relieved, I saw the steamer.

5. What did you do after you saw the steamer?

Answer. Well, when I saw the lights first, I reported "a light ahead" to the mate. I walked the deck a few minutes, not very long, when I discovered that it was a steamboat, and reported to the mate that it was a steamboat's lights.

6. Whether or not after you reported to the mate that the lights ahead were a steamboat's lights, was there any, and what alteration made in the schooner's course?

Answer. Yes, sir. After I reported to him that it was a steamboat's lights, he kept the vessel off of her course, way to the eastward.

7. How long after you reported the steamer's lights was it before this alteration was made?

Answer. Well, not long, sir. I didn't exactly keep the run of the time; but I could see after I reported the vessel to him that he kept the vessel away. Immediately after I reported, I could see by the steamboat's lights and the vessel's head that he kept her off. I couldn't say exactly how long or how short a time it was.

8. How was the schooner steering when you left the wheel, as you say, a few moments before seeing the lights ahead?

Answer. Well, about, I should think, 15 minutes past three I left the wheel. I was then steering northeast by east half east.

9. When you first saw the steamer's light, how was she bearing from you?

Answer. A little on our port bow.

10. How long before the collision was it that you discerned the steamer?

Answer. I guess about fifteen or twenty minutes, more or less, after I first saw the light.

11. In what way did the schooner have the wind when the steamer struck her?

Answer. At the time of the collision, I should think she was right dead afore the wind, so much so that the mainsail came near jibing. The wind was about nor'west.

12. (Objected to.) Whether or not would the steamer have struck your schooner if no change had been made in her course after you reported her lights as you have stated?

Answer. Well, my opinion is, that if there had been no change made they would have gone clear, I judged.

13. Did the schooner carry or show any light during this time, or at any time during your watch?

Answer. No; there was no light. She had a lantern, but it was in the cabin and not lit.

14. How did you know the lights you saw to be a steamer's lights?

Answer. I had been in that line of steamboats before myself.

In answer to the following cross-interrogatories, proposed by Charles W. Storey, esq., he replies:

1 X. In whose employ are you now?

Answer. Well, I am out of employ. I am shipped aboard of the brig "Candaci," but I don't know who she belongs to. The captain's name is Matthews.

2 X. Is that Captain Matthews a brother of the Captain Matthews of the steamer "City of New York?"

Answer. I can't really say.

3 X. Have you told the same story every time you have talked about this matter?

Answer. Well, I may not have been asked so many questions, but I have told no different story about it.

4 X. How often have you talked about it and to whom?

Answer. Well, I never kept the run of how often. I don't know that I was asked any more than once or so, a few days after the collision took place. I was not sworn at that time. That was in the presence of Capt. Matthews and Mr. Tobey.

5 X. Haven't you talked about it with several other persons?

Answer. Well, I suppose I have with such as myself, during the last twelve months, aboard of other vessels—with a whole ship's company.

6 X. (Objected to.) Did you or not, when you got on board the steamer immediately after the collision, say that they were very careless in running into you, or words to that effect?

Answer. Well, I don't suppose I said anything about it. I was glad to get aboard and save my life. I didn't say no such a thing.

7. Did you ever sail with the man who was at the wheel, or any officer of the "City of New York," before or after the collision?

Answer. I have sailed with the man at the wheel since the collision, and have sailed with the captain, mate and second mate since. I never had sailed with them before.

D. R. 1. Previous to your reporting the steamer's lights to the mate, had you noticed any change in the course of the schooner?

Answer. No, sir.

his
ROBERT ⋈ COCHRAN.
mark.

Witness: C. P. CURTIS, Jr.

Deposition of Obed Baker, (a witness in behalf of respondents,) taken before C. P. Curtis, jr., esq., Commissioner, at Boston, on the 19th day of October, A. D. 1857, and filed in court on the 20th day of November, A. D. 1857.

1. What is your name, age, and business, and residence?

Answer. My name is Obed Baker; my age is forty; my place of residence is Dennis, in this State. My occupation is master mariner.

2. (Objected to.) State whether or not you know Luther Fiske, the mate of the schooner George Engs at the time of the collision of that schooner and the steamer "City of New York;" and have you had any, and what conversation with him about the collision? If so, state fully all that passed between you and him, and where it was.

Answer. I know him by sight. I believe this is the man now present. He is the man with whom I had a conversation. He came to my house in Dennis soon after the collision; it may have been two weeks, and it might have been six weeks; I can't say exactly, but it was soon after. He came to my house on some business. In speaking of the collision, I spoke of it to him as

rather a serious, bad affair, and asked him to tell me the whole circumstance from the commencement to the end, concerning the collision. He stated he was somewhere near Montauk Point, west of the Point; the wind was from the north, or N. N. west; he was steering northeast or N. E. by east, and he was hugging along by the island. He saw the steamer a long distance off, and kept her off east N. east, as that was his true course from Montauk to Block island. He saw the steamer coming, and thinking to give her a good berth, he kept her off east by north, and then east. He was winding of her off, as I understd him oo at the time, gradually.

He paid but little regard to the steamer then, he said, as he saw her about abeam of him, and he supposed she was about to pass him, or thinking she was going past him; (those were his words, I believe.) On looking again, he saw she was winding off, and coming down on him very fast, as he supposed, and then he was heading east, southerly, and I understood him to say the schooner was winding off gradually all the time towards the southward. He then sung out to the captain of the schooner, and put his helm hard a-port, and then come the collision, the steamer striking him on the quarter.

I asked him if he had kept a east-northeast course, whether there would have been any collision, and he said no; the steamer would have passed a mile to the windward of him. I am in wrong in that, because it would not be that—it was this: He said if he had kept his east-northeast course, the steamer would have passed a mile clear of him. I told him he ought to have kept his course, because it was the steamer's business to alter her course for the sailing vessel, for we invariably did that. His reply was, that if the steamer had kept her course, they would have gone clear.

My answer to that was, that it was our business on board of the steamers to alter our course and not his; that was about the whole of the conversation.

To the cross-interrogatories proposed by J. W. May, esq., he answers as follows:

1 X. Are you now in the employ of the owners of the "City of New York," and how long have you been, and in what capacity?

Answer. I am. I have been in their employ four years next March, as commander of two of their steamers; first of the steamer "City of Boston," and then of the steamer "Palmetto," which I now command.

2 X. You mean to state the effect of the conversation and not the exact words, do you not?

Answer. I do; the substance of the exact words, as nigh as I can recollect at this time.

3 X. You introduced the conversation, did you not?

Answer. Well, the conversation introduced itself; by the business he came about, the subject of the collision was spoken of. He brought me some money to carry to Philadelphia, to pay a debt there on account of the schooner, before she left. I paid the money to Crowell & Collins, and then we naturally spoke of the collision, and I said it was a bad affair, and I was sorry for him. It was money which he wanted carried to Philadelphia for some reason or other—I can't recollect exactly. It was some money matter connected with the schooner.

4 X. You are sure he said the money was wanted on account of a debt due from the schooner before she left Philadelphia, as sure as of any other matter he stated?

Answer. No, I am not. I am sure he wanted me to carry the money to Philadelphia, and pay it to Crowell & Collins. That matter I am sure of.

5 X. But you are not sure that he said it was for a debt due before the schooner left Philadelphia?

Answer. I am sure it was for some business transaction in Philadelphia, before the schooner left. I so understood at the time. That was my impression.

6 X. Do you mean to say that you are sure, or not?

Answer. I mean to say that I am sure that I so understood it.

7 X. How much was the amount of money, and did not he tell you he borrowed the money after he got back to Philadelphia after the collision to buy some clothes with?

Answer. I can't tell the amount. As to the other part of the question I can't say. I recollect that my impression at the time was, that it was some business connected with the schooner and the collision; but whether it was for money due or borrowed before the schooner left Philadelphia I can't say. My reason for not recollecting the exact business done in Philadelphia is, that I gave that no further thought; but as far as the collision was concerned, being connected with the steamers myself, I paid more regard to it.

8 X. That is the reason why you recollect the conversation about the collision better than the conversation about that special business for which he called on you?

Answer. Yes, it was more impressed on my mind, being a collision case.

9 X. Did he not say, when he said if he had kept his course they would have gone clear, the steamer was so far off, he had a right to go where he pleased?

Answer. I don't recollect of his saying so.

10 X. Did he not ask you if he had not such a right under such circumstances?

Answer. I don't recollect as he did. I do recollect censuring him very much for keeping off.

11 X. Who was present at the conversation besides yourself?

Answer. I think no one but my wife.

12 X. Had you any conversation about the collision with any one of the persons on board the steamer "City of New York," at the time of the collision?

Answer. I had not; I had not seen one of them. The first version of the collision that I had was from Mr. Fisk. I had heard of the collision before, but the first account of it was from Mr. Fisk.

13 X. How long did you talk about the collision?

Answer. I can't say. He might have been there half an hour, and perhaps less time. It was about as long as it would take to have such a conversation as I have repeated.

14 X. State as near as you can how long the conversation lasted?

Answer. I have already stated that.

15 X. To whom did you first mention the conversation, and when and to whom?

Answer. Well, I think I first mentioned it in the store kept by Crowell in W. Dennis. It was the very day or the next day after the conversation I was in there, and we were talking about the collision; I think that was the first place I mentioned it, but I am not certain. I may have mentioned it in Boston first. I can't recollect the names of the persons in the store at the time, nor whether Mr. Crowell was there himself. There might have been forty in there.

16 X. Don't you know whether you mentioned the conversation at Dennis or Boston first?

Answer. I believe I have stated that I didn't know whether it was in Boston or W. Dennis that I mentioned it first.

17 X. Give the names of all the persons to whom you have told the story.

Answer. I told it to Sprague, Soule & Co., in Boston, the agents of the line; I can't mention anybody else.

18 X. When did you mention the matter to them?

Answer. I think it was the first time I saw them after the conversation; I can't state the time exactly; it was soon after the conversation; it might have been a week after, not more than a week.

19 X. Had you heard the matter talked about by any of the owners of the schooner in Dennis before you told Sprague, Soule & Co.?

Answer. No other than Mr. Fisk, that I know of—that is, before I talked with Sprague, Soule & Co.

20 X. Had you not heard that they intended to make a claim on the owners of the "City of New York" before you told Sprague, Soule & Co. about it?

Answer. I have not.

OBED BAKER, 3d.

Deposition of Thomas Howlett, (a witness in behalf of respondents,) taken before C. P. Curtis, jr., esq., Commissioner, at Boston, on the twentieth day of June, A. D. 1857, and filed in court the 20th day of November, A. D. 1857.

1. State your name, age and residence, and whether or not you have followed the seas for any and how long a time?

Answer. My name is Thomas Howlett; my age is thirty; I reside in Charlestown; I have followed the seas about ten years.

2. Whether or not were you in the steamer "City of New York" at the time of the collision with the "George Engs," and in what employment, and how long had you been attached to her?

Answer. I was. I was a seaman on board of her, and had been so ten months.

3. Whose watch was it on deck at the time, and who were on deck at the time of the collision?

Answer. It was the second mate's watch. Mr. Reardon, the second mate, Samuel Morrison, Michael Murphy and myself were on deck at the time.

4. Whether or not was there any, and what look-out kept at the time?

Answer. I was on the look-out, and kept a good look-out on the starboard bow; Samuel Morrison was also on the look-out on the larboard bow.

5. How long had you been on the look-out before the collision; where were you standing, and whether or not were there any, and what obstructions to your keeping a good look-out there?

Answer. I had been there over an hour. I was standing on the deck as far forward as the topgallant forecastle, leaning over the starboard side. I was leaning against the topgallant forecastle and over the bulwarks. The was nothing to obstruct my view.

6. How carefully did you watch prior and down to the time of collision?

Answer. I watched as carefully as I could. Perhaps I would turn round a quarter of a minute and look out under her lee, but not over a quarter of a minute.

7. Who first discovered the "George Engs," and how was she then bearing from the steamer?

Answer. I did, sir. I couldn't tell how she was bearing then. She was about a point on our starboard bow.

8. Where were you then standing, and how long had you been standing there without moving?

Answer. I was standing in the same place I have said. It had been five or ten minutes since I had changed my place at all.

9. (Objected to.) Whether or not could the schooner have been seen from the steamer any sooner than you saw her?

Answer. No sir, I don't think she could.

10. What did you do when you first discovered the schooner?

Answer. I sang out to the second mate, there was a "sail ahead."

11. Which way was the schooner then heading?

Answer. Well, I could notice her as soon as I could tell how she was heading; then she was coming towards us. When I first discovered her, I couldn't tell which way she was heading. About half a minute afterwards, I made out she was coming towards us.

12. After you reported her to the second mate, what did he do?

Answer. I sung out twice, and I heard the second mate singing out to the chap in the wheel-house to put the wheel "hard a-starboard."

13. After the helm of the steamer had been put hard a-starboard and she had begun to work off, whether or not did you notice any and what change in the schooner's course?

Answer. Well, I understood by the schooner that she had put her helm to port, and was falling off too.

14. Down to the time of this change in the course of the schooner, how had she been heading?

Answer. Well, I can't exactly tell. She seemed to me to be heading down towards us.

15. (Objected to.) If there had been no change in the course of the schooner after the steamer's helm had been put hard a-starboard, what would have happened?

Answer. I should think she'd go clear, sir.

16. How much clear, and on which side of you? (Objected to.)

Answer. She'd go on our starboard bow nearly half a mile.

17. How long after the steamer's helm was put hard a-starboard was it before the schooner changed her course?

Answer. I can't say, sir. It wasn't long; it was two or three minutes, to the best of my knowledge.

18. What was done on board the steamer, if you know, after the schooner changed her course?

Answer. There was nothing done to my knowledge, except to keep the helm hard a-starboard. I heard an order to stop the engine.

19. How long after the schooner changed her course was it before the steamer struck her?

Answer. They both changed their course about the same time; not two minutes before the collision.

20. Whether or not there was any moon at the time of the collision?

Answer. No, sir; not as I know of.

21. Had there been a moon that night; and if yea, how long had it been down, and how clear was it?

Answer. There had been a moon, but it had just gone down. It was not very dark nor very clear; there was no fog, but it was a little heavy.

In answer to the following cross-interrogatories proposed by J. W. May, esq., he replies as follows, viz:

1 X. Was it not a clear starlight night?

Answer. No, sir; the moon was after going down, and it was a little dim; there might have been stars up, but they didn't show clear.

2 X. Are you as sure of that as of any fact to which you have testified?

Answer. Yes, sir.

3 X. Did not the collision take place within ten minutes after you first saw the schooner?

Answer. Yes, sir.

4 X. Did not the mate order this helm hard a-starboard as soon as you cried "sail ahead?"

Answer. No, sir. I sung out twice. I sung out once, and there was no answer. I just looked down and sung out again, and then the mate ordered the wheel to starboard, just as quick as I sung out.

5 X. How far from the schooner was the steamer when you first saw her?

Answer. Well, to the best of my opinion, she was over three-quarters of a mile.

6 X. When you say in your 18th answer, that nothing was done on board the steamer after she put her helm hard a-starboard, you mean there was no change in the engine to your knowledge, do you not?

Answer. I was watching the schooner all the time, and couldn't say if there was any change in the engines or not.

7 X. Where did the steamer strike the schooner?

Answer. Abaft the main chains, in my opinion.

8 X. When you say you understood the schooner put her helm to port and was falling off too, do you mean that you judged so, or heard so?

Answer. I judged so.

9 X. How much was the change in the course of the schooner, in your judgment?

Answer. A good deal in both steamer and schooner. They changed nearly alike in my opinion.

10 X. How far were you from Montauk Point at the time of the collision?

Answer. I can't tell, sir; I don't exactly know; I didn't take much notice of it.

11 X. You could see the land distinctly, could you not?

Answer. I didn't see it. I don't recollect.

12 X. Hadn't you just seen Montauk light?

Answer. I don't exactly recollect now whether I saw the light or not, it is so long ago. To the best of my opinion, it was four miles from us.

13 X. (Objected to.) How can you say you were 4 miles, to the best of your opinion, if you did not see it?

Answer. I don't recollect whether I saw it that night or not.

14 X. Could you or not have seen the land if you had looked?

Answer. I don't know that, sir.

15 X. How far could you see at that time?

Answer. I could observe plain about three-quarters of a mile.

16 X. Do you mean to say that you could not see more than $\frac{3}{4}$ of a mile at the time of the collision?

Answer. I couldn't see a thing plain; I suppose I could have seen land further than that if I had taken notice, but I didn't.

17 X. How much further could you see the land?

Answer. I expect I could have seen land nearly two miles off, but I took no notice.

Direct resumed.

1. Whether or not can you state to a minute how much time elapsed between the time you first saw the schooner and the time of the collision?

Answer. I can't, sir, exactly.

2. Whether or not are you now attached to the steamer "City of New York," or in the employ of her owners?

Answer. No, sir, to both branches; I left her shortly after the schooner was run down, and have not been in their employ since, and don't expect to be.

his
THOMAS ⋈ HOWLETT.
mark.

Witness: C. P. CURTIS, JR.

Deposition of Michael Murphy, (a witness in behalf of the respondents,) taken before C. P. Curtis, jr., esq., Commissioner, at Boston, on the 20th day of June, A. D. 1857, and filed in court on the 20th day of November, A. D. 1857.

1. What is your name, age, and residence, and whether or not have you followed the seas for any and how long a time?

Answer. My name is Michael Murphy; my age is 23; I have followed the seas seven years.

2. Whether or not you were in the steamer "City of New York" at the time of the collision with the "George Engs," and in what employment, and how long were you attached to the steamer?

Answer. I was seaman on board of her; I had been so eighteen months.

3. Whose watch was it on deck at the time of the collision, and who were on deck?

Answer. The second mate's; the second mate, myself, Thomas Howlett and Samuel Morrison.

4. Who was then at the helm, and how long had he been there?

Answer. I was; I had been there an hour and a half.

5. What did you first know of the schooner; and state whether you received any and what order in regard to the helm, and what did you upon receiving the order, and how quickly?

Answer. The first I knew, the second mate ordered the helm hard a-starboard, and I put it hard a-starboard, just as I got the order.

6. Whether or not did you see the schooner before you received the order to put your helm hard a-starboard?

Answer. No, sir, I did not.

7. Whether or not did you see her after you starboarded your helm, and how was she heading as regards the steamer when you first saw her, and on which bow did you see her?

Answer. Yes, sir, I saw her; she was heading towards us; I saw her on our starboard bow.

8. Whether or not did you afterwards watch the schooner enough to know what, if any, changes were made in her course, or were you so occupied at the wheel as not to observe them?

Answer. I did not watch her course; I was too much occupied by the wheel.

9. (Objected to.) If no change had been made in the schooner's course after you first saw her, what, if anything, would have happened to the vessels and how would they have gone?

Answer. They would have gone clear; the schooner would have passed on our starboard bow.

10. Whether or not had there been a moon that night, and was it up or had it gone down before the time of the collision?

Answer. There had been a moon, but it had gone down at that time.

11. On what course had you been and were you steering at the time you received the order to put your helm hard a-starboard?

Answer. Southwest by south.

12. About how long was it after you were ordered to put the helm hard a-starboard, before the collision took place?

Answer. About three minutes.

13. Whether or not are you now attached to the steamer "City of New York," or in the employ of her owners?

Answer. No, sir.

And in answer to the following cross-interrogatories proposed by J. W. May, esq., he replies as follows:

1 X. (De bene esse.) Why do you say that if the schooner had not changed her course she would have gone to the starboard of the steamer?

Answer. Because she was far enough to windward of us.

2 X. How much was the schooner to the windward of the steamer?

Answer. Quarter of a mile.

3 X. Are you as sure of that as of any other fact you have testified to?

Answer. Yes, sir.

4 X. Where were you from Montauk Point, and how far?

Answer. About four miles from Montauk, about south from it, but I didn't take the bearing.

5 X. Are you sure and could you see the land plainly?

Answer. I am sure that I saw the light plainly; I didn't take notice of the land; I was in the wheel-house.

6 X. How near did you go to Long island?

Answer. About four miles from the light; that was as close to Long island as we ran that night.

7 X. Was that as close as it was safe to go?

Answer. No, sir, we could go closer than that; I don't know.

8 X. What kind of a night was it?

Answer. A fine night.

9 X. You mean by fine, clear and starlight, do you not?

Answer. Yes, sir, it was a fine night; it was starlight, and a little dimness after the moon had gone down.

10 X. There was nothing but dimness, no haze, or fog, was there?

Answer. No, sir.

MICHAEL MURPHY.

Deposition of Samuel Morris, (a witness in behalf of respondents) taken before C. P. Curtis, jr., esq., Commissioner, at Boston, the 22d day of October, A. D. 1857, and filed in court on the 20th day of November, A. D. 1857.

1. State your name, age, residence, and occupation.

Answer. My name is Samuel Morris; my age is twenty-seven; I belong in Boston, and am a mariner by occupation.

2. Are you now attached to the steamer "City of New York" in any, and what capacity; how long have you sailed in her?

Answer. I am attached to her as second mate; I have been in her more than four years, and I have been second mate seven months.

3. Whether or not were you on board the steamer when the collision with the "George Engs" happened?

Answer. I was.

4. Whose watch was it on deck at the time; and who were on the look-out, if you know?

Answer. The second mate's watch. Michael Murphy, Thomas Howlett, the second mate and myself, were on the deck at the time. Thomas Howlett and I were on the look-out.

5. Where were you placed, and where was Howlett placed?

Answer. Howlett was on the starboard bow, and I was on the larboard bow.

6. What did you first know of the schooner, and what did you first do?

Answer. Thomas Howlett sang out there was a sail ahead; I jumped up then on the starboard side, and sang out to the second mate that there was a sail ahead.

7. Whether or not could you see the schooner from the larboard bow?

Answer. No, sir.

8 Whether or not did you, while on the watch on the larboard bow, keep any, and how good a look-out up to the time when you heard Howlett sing out about a sail ahead?

Answer. I kept as good a watch as could be on the larboard side.

9. About how was the schooner bearing from you when you first saw her?

Answer. Well, I couldn't tell exactly her bearing by the compass; she was about a point on the starboard bow.

10. How did she appear to be coming?

Answer. She appeared to be coming right on to us, when I first saw her.

11. What did the second mate first do after Howlett sang out "sail ahead?"

Answer. He sang out to the man in the wheel-house to put the wheel hard a-starboard.

12. After the wheel was put hard a-starboard, and the steamer had began to pay off, whether or not did you notice any and what change in the course of the schooner?

Answer. Yes, sir; I took notice that the schooner had her wheel hard a-port, and began to pay off.

13. (Objected to.) Whether or not if there had been no change in the schooner's course after the steamer altered hers, what, if anything, would have happened?

Answer. Nothing at all, sir; they would have gone clear.

14. (Objected to.) How clear, and how much clear?

Answer. On the starboard side of us, about three-quarters of a mile from each other.

15. About how far was the schooner from you when you first saw her?

Answer. Well, I couldn't exactly tell; I suppose she was over a half a mile from us.

16. Whether or not had there been a moon that night, and

was it up or down, and how clear was it at the time you saw the schooner?

Answer. There had been a moon; it had just gone down; it was a fine clear morning, but the moon having just gone down, made us a little dizzy in our eyes.

17. After you saw the schooner change her course as you have stated, whether or not was anything and what done with the engine?

Answer. I couldn't tell that.

18. Where were you down to the time of the collision?

Answer. I was standing between the windlass and the forecastle, after I first saw the schooner, down to the time of the collision.

19. When did you first see the captain of the schooner; what was he doing; and was it before, at the time of, or after the collision?

Answer. After running into the schooner, I saw him running up out of the cabin; he thought to get aboard of us at the bow, but did not, till a rope was thrown over from the stern, and he was hauled on board of the steamer.

And in reply to the following cross-interrogatories, proposed by J. W. May, esq., he replies as follows:

1 X. After you heard Howlett sing out, did you jump up and sing out to the second mate as quick as you could?

Answer. Yes, sir.

2 X. Was that because you were afraid of a collision?

Answer. Yes, sir.

3 X. Where did the steamer hit the schooner, and what was the effect of the blow?

Answer. Right abreast the cabin, and went right through into the cabin. The schooner was slewed round, so that she was brought right up alongside of us.

his
SAMUEL ⋈ MORRIS.
mark.

Deposition of Augustus Crowell, (a witness for respondents,) taken before C. P. Curtis, jr., esq., Commissioner, at Boston, on the 22d day of October, A. D. 1857, and filed in court on the 20th day of November, A. D. 1857.

1. State your name, age, residence, and occupation; whether or not you are attached to the steamer "City of New York" in any, and what capacity, and how long have you been thus attached to her?

Answer. My name is Augustus Crowell; my age is thirty-one; by occupation I am a mariner. I am first mate of the steamer

"City of New York," and have occupied that position four years and a half.

2. Where were you at the time of the collision with the schooner "George Engs," and what did you first know of it?

Answer. I was in the cabin asleep in my berth. The first I knew of it was the shock of the blow.

3. What did you then do? How long were you in getting on deck? What was the engine then doing, and what orders were given in regard to it?

Answer. I jumped out on deck. I was on deck in a minute or a minute and a half to two minutes. I had nothing to do but to jump out of my berth and run out on deck, and I did that immediately. When I got on deck the engine was reversed. The captain sang out to stop the engine.

4. Where is the watch usually stationed on board the steamer "City of New York," and whether or not there is any advantage in the watch being on the forecastle?

Answer. They are usually placed forward—forward of the windlass. She has only a very small forecastle—so that a man could not stand there very well. You can stand on the deck and look right over the bows, and over the rail. There would be no advantage for a man to stand on that forecastle—for, standing on the deck, he could see right over it.

5. State whether you heard the mate of the schooner say anything, and what, about how the collision happened after he got on board the steamer, and where he was when he made the statement?

Answer. After he was on board the steamer he said, if he had kept his course, he thought they would have gone clear. He knew they would. I couldn't tell whether he was on board the steamer then. He was on board the steamer. That is about all I can recollect of his saying now. I heard a good deal at the time of it, but I have forgot it all.

6. Whether or not did he say anything, and what, as to who was in fault?

Answer. He said he thought they was; for if they had kept their course they would have gone clear of us.

7. Whether or not did you hear the captain of the schooner say anything, and what, about where he was at the *the* time of the collision?

Answer. The captain said he was in the cabin when the steamer struck the schooner, and when he came up the gangway the water was running down.

And in reply to the following cross-interrogatories proposed by J. W. May, esq., he replies as follows:

1 X. Cannot you tell us anything about the time when, the

places where, and the persons who were present at these conversations?

Answer. They were in the cabin; the conversation with the captain was the next day after the collision—that is, the same day, for it was morning. I couldn't tell the time of the day, whether after breakfast or dinner. I cannot tell who were present. The captain of the steamer was there.

2 X. Were you busy at the time?

Answer. No, sir.

3 X. Did you take particular notice of what was done and said?

Answer. Well, I took notice of that. I sat there and heard the conversation. I did not take notice enough to write it down, or commit it to memory. I mean, I didn't think I should have to tell it again.

4 X. How happens it that you can recollect the conversations mentioned, and yet can state so few of the incidents?

Answer. That comes to my memory, and the rest don't. That is all the reason I can give.

5 X. How, and when, did it come to your memory?

Answer. Since I have been questioned about it; since I have been up among the lawyers. The first time I came to Mr. Thaxter's office was in July last.

6 X. There was much conversation between various parties on board the steamer, touching the collision, was there not?

Answer. There was betwixt the captain and mate of the schooner, and the officers of the steamer.

7 X. How can you say that the officers of the steamer were present, when you have just said that the only person you can recollect was the captain of the steamer?

Answer. I thought you meant at different times.

8 X. Then you mean to say that you heard various conversations, at various times, on board the steamer, between the officers of the steamer, and the captain and mate of the schooner, and that you have stated all that you can recollect.

Answer. Yes, sir.

AUGUSTUS CROWELL.

This libel was filed and entered at a special district court, held on the third day of October, A. D. 1856, and thence was continued from time to time to this ninth day of December, A. D. 1857; and now, after a full hearing of the cause, upon the facts proved, and arguments of counsel, and mature deliberation thereon had, it is ordered, adjudged, and decreed by the court, that said libel do stand dismissed without costs.

And on the 14th day of December, A. D. 1857, the following prayer for an appeal was filed in court, viz:

U. S. A., Massachusetts District—December 14, 1857.

JUDAH BAKER et als.
vs.
STEAMER "CITY OF NEW YORK." } In Admiralty.

And now the libellants in said cause come into court and appeal from the decree of said cause to the circuit court, next to be holden in said district, and pray that said appeal may be allowed.

By their proctors,
STOREY & MAY.

Whereupon said appeal was allowed by the court.

I, S. E. Sprague, clerk of the district court of the United States for the district of Massachusetts, hereby certify that the foregoing is a true copy from the records of this court.

In witness whereof, I have hereunto signed my name and affixed the seal of this court, this day of December, A. D. 1857.

[L. S.]

Attest: S. E. SPRAGUE, *Clerk.*

This appeal was entered at the May term of this circuit court A. D. 1858, when and where the parties appeared by their respective proctors, and the following additional evidence was filed in the cause, namely:

United States Circuit Court, Massachusetts district.

JUDAH BAKER and al., Appellants,
vs.
STEAMSHIP CITY OF NEW YORK, Alfred Winsor, Claimant. } In Admiralty.

Additional Testimony on the part of the Libellants.

Deposition of Daniel Baker, sworn to before C. P. Curtis, jr., esquire, a Commissioner of the circuit court of the United States, in and for the district of Massachusetts, at Boston, on the twenty-fourth day of May, A. D. 1858, and filed in said circuit court on the 28th day of May, A. D. 1858.

1. Please state your name, age, and occupation, and whether and how long have you been master of a vessel, and how long have you sailed from Boston to Philadelphia?

Answer. My name is Daniel Baker; my age is thirty-six; I am a master mariner; I have been master of a vessel about twenty years; I have sailed between Boston and Philadelphia for six or eight years.

2. (Objected to.) A schooner of about 130 tons is about four miles south to southwest of Montauk Point, steering about E. N. E., in a clear starlight night in December, from a half an hour to an hour after the moon has set, the wind blowing a six-knot breeze

from about N. N. W., there being no haze or fog or other obstruction to the sight except the dimness which follows the setting of the moon. How far can such a schooner be seen from the deck of another vessel steering about S. W. by S.?

Ans. Well, that depends somewhat on circumstances; if there was a look-out she might have been seen two or three miles; if a man should have come up on deck and gazed round, perhaps he couldn't have seen her so far.

3. (Objected to.) Is it customary for a sailing vessel to carry or show lights under the circumstances stated in the last interrogatory?

Ans. Well, not for coasting vessels I don't suppose it is; for large ships I suppose it is; I never have myself; the custom, so far as I know, is for them not to carry lights.

4. (Objected to.) Would or would not the schooner steering E. N. E. make any change in her course at about that point with reference to Block island? If any, what?

Ans. If she was bound south of Block island she would naturally change her course to the eastward, if she made any change; if she were bound to Boston, she would go south of Block island; vessels bound to Newport sometimes go north of Block island.

5. (Objected to.) A propeller 575 tons burden and 175 feet long is sailing ten knots an hour S. W. by S., wind about N. N. W.; she suddenly puts her helm hard a-starboard; how many points will she change her course in going half a mile, or, in other words, how far round will she turn?

Ans. Half way round; sixteen points.

Cross-examination.

X 1. When was it that you sailed between Boston and Philadelphia?

Ans. Six or seven years ago.

X 2. (De bene esse.) The knowledge that you had in regard to carrying lights between those two places was obtained when you sailed these ports, was it not?

Ans. Yes; some then, and some since.

DANIEL BAKER.

Deposition of Freeman Baker, sworn to before C. P. Curtis, jr., esq., Commissioner, at Boston, on the twenty-fourth day of May, A. D. 1858, and filed in court on the 28th day of May, A. D. 1858.

1. Please state your name, age, and occupation, and whether and how long have you been master of a vessel, and how long have you sailed from Boston to Philadelphia?

Answer. My name is Freeman Baker; my age is fifty; I am now a ship broker; I have been master mariner some ten or twelve years; I have never run between Boston and Philadelphia; I have

coasted considerable between New York and other points; I was master of a propeller about nine months.

2. (Objected to.) A schooner of about 130 tons burden is about four miles south to southwest of Montauk Point, steering about E. N. E. in a clear starlight night in December, from one-half an hour to an hour after the moon has set, the wind blowing a six-knot breeze from about N. N. W., there being no haze or fog or other obstruction to the sight except the dimness which follows the setting of the moon; how far can such a schooner be seen from the deck of another vessel steering about S. W. by S.?

Ans. A mile and a half; that is, the schooner could be seen that distance from the steamer.

3. (Objected to.) Is it customary for a sailing vessel to carry or show lights under such circumstances as are stated in the last interrogatory?

Ans. It was not when I went.

4. (Objected to.) A propeller 575 tons burden and 175 feet in length is sailing ten knots an hour S. W. by S., wind about N. N. W.; she suddenly puts her helm hard a-starboard; how many points will she change her course in going half a mile, or, in other words, how far round will she turn?

Ans. I should think she would turn half way round; the propeller I was in, three hundred and seventy tons, I believe I could turn all the way round in half a mile, she was shallow and drew only nine feet, but I suppose this one was two feet deeper; if so, would not turn so quick.

Cross-examination.

X 1. How long is it since you have been to sea?

Ans. Seven years.

X 2. (De bene.) Was it not customary for vessels in Long Island Sound to carry or show a light upon the approach of a steamer?

Answer. It was not; there were a few, and it had just begun to come in fashion; I never did.

X 3. (De bene.) In what are called clear nights you can see some nights farther than others, can't you?

Ans. Yes, sir.

FREEMAN BAKER.

Deposition of Luther Studley, sworn to before C. P. Curtis, jr., esq., Commissioner, at Boston, on the twenty-fourth day of May, A. D. 1858, and filed in court on the 28th day of May, A. D. 1858.

1. Please state your name, age and occupation; whether and how long you have been master of a vessel, and how long have you sailed from Boston to Philadelphia?

Answer. My name is Luther Studley; I am forty years old; I

am master mariner; I have been master of a vessel somewhere about twenty years; I have run seven years between Boston and Philadelphia—these were the seven years prior to 1853—and have had charge of a propeller.

2. (Objected to.) A schooner of about 130 tons is about four miles south to southwest of Montauk Point, steering about E. N. E., in a clear starlight night in December, from a half an hour to an hour after the moon has set, the wind blowing a six-knot breeze from about N. N. W., there being no haze or fog, or other obstruction to the sight, except the dimness which follows the setting of the moon; how far can such a schooner be seen from the deck of another vessel steering about S. W. by S.?

Ans. I should think she might be seen some two miles.

3. (Objected to.) Is it customary for a sailing vessel to carry or show lights under such circumstances as are stated in the preceding interrogatory?

Ans. I should think not.

4. (Objected to for form and substance.) Would or not the schooner steering E. N. E. make any change in her course at about that point, with reference to Block island; and if any, what?

Ans. I shouldn't suppose she would have made any change.

5. (Objected to.) If she changed at all, which way would it be?

Ans. Well, I shouldn't suppose any change would be made. I should think her course was E. N. E. through the Sound.

6. (Objected to.) Would it be safe for her to go any farther to the north?

Ans. I shouldn't suppose it would.

7. (Objected to.) What is the customary course for vessels bound from Philadelphia to Boston, north or south of Block island?

Ans. South.

8. (Objected to.) A propeller 575 tons burden and 175 feet long is sailing ten knots an hour, going S. W. by S., the wind about N. N. W. She suddenly puts her helm hard a-starboard. How many points will she change her course in going half a mile? In other words, how far round will she turn?

Ans. Well, I don't how to answer that. I should suppose she would make half a circle.

Cross-examination.

X 1. (De bene.) Did you ever see the steamer City of New York start from T wharf, and have to have assistance to get round clear of East Boston, and have a tug-boat to assist her in doing it?

Ans. I have seen the steamer have a tug-boat to get them clear of the wharf, but never to clear E. Boston.

LUTHER STUDLEY.

Deposition of Elihu Kelly, sworn to before C. P. Curtis, jr., esq., Commissioner, at Boston, on the twenty-fifth day of May, A. D. 1858, and filed in the court on the 28th day of May, A. D. 1858.

1. Please state your name, age, and occupation; whether and how long you have been master of a vessel, and how long have you sailed from Boston to Philadelphia?

Answer. My name is Elihu Kelly; my age is 40; my occupation is master mariner; I have been master nine years, and seven years out of the nine I have been between here and Philadelphia; I have been in the propeller "Young America," with Capt. Studley, who testified here yesterday, for the last eight or nine months.

2. (Objected to.) A schooner of about 130 tons is about four miles south to southwest of Montauk Point, steering about E. N. E., in a clear starlight night in December, from a half an hour to an hour after the moon has set, the wind blowing a six-knot breeze from about N. N. W., there being no haze or fog, or other obstruction to the sight, except the dimness which follows the setting of the moon; how far can such a schooner be seen from the deck of another vessel steering about S. W. by S.?

Ans. Well, I should say about four miles.

3. (Objected to.) Is it customary for a sailing vessel to carry or show lights under such circumstances as are stated in the preceding interrogatory?

Ans. I should say not.

4. (Objected to.) Would or not the schooner steering E. N. E. make any change in her course at about that point, with reference to Block island; and if any, what?

Ans. Well, she would be apt to wind off a point or two to the eastward.

5. (Objected to.) A propeller 575 tons burden and 175 feet long is sailing 10 knots an hour, going S. W. by S., the wind about N. N. W.; she suddenly puts her helm hard a-starboard; how many points will she change her course in going half a mile; in other words, how far round will she turn?

Ans. Well, a propeller running at that rate will turn a good deal quicker with her helm put that way than she would if it were put to the port; I should say she would turn two-thirds of the way round.

6. (Objected to.) Do you know Capt. Luther Studley and Daniel Baker? What is their business?

Ans. Capt. Baker's business is, and has been for a number of years, running a propeller tug-boat in Boston harbor. Capt. Studley has been in the "Young America" with me. This last boat is about 130 tons. Capt. Baker's boat is about 117 tons.

Cross-examination.

X 1. Were you ever in any other propeller than the "Young America?"

Ans. No, sir, except as passenger.

X 2. Did you ever have anything to do with the sailing of any vessel of over 200 tons?

Ans. No, sir.

X 3. (De bene.) Did you ever know of either Capt. Baker or Capt. Studley having anything to do with any vessel over 200 tons burthen?

Ans. I don't know that they ever did. They know better than I do.

X 4. Why does a propeller turn quicker with the helm hard a-starboard than hard a-port?

Ans. Well, I should say the action of the blades on the water throws the stern round that way naturally.

X 5. Which way does the action of the water throw the stern round naturally?

Ans. The stern is thrown to the right.

ELIHU KELLY.

Deposition of Cyrus T. Fuller, sworn to before C. P. Curtis, jr., esq., Commissioner, at Boston, on the twenty-fifth day of May, A. D. 1858, and filed in court on the 28th day of May, A. D. 1858.

1. Please state your name, age and occupation, whether and how long you have been master of a vessel, and how long have you sailed from Boston to Philadelphia?

Ans. My name is Cyrus T. Fuller; my age is 35; I am master of a propeller tug-boat, the "Young America," plying in Boston harbor; I have just joined her, and am going to Norfolk, Va., in her; I have commanded other vessels ten years off and on—and about all that time between Boston and Philadelphia and Baltimore—up to last fall.

2. (Objected to.) A schooner of about 130 tons is about four miles south to southwest of Montauk Point, steering about E. N. E., in a clear starlight night in December, from a half an hour to an hour after the moon has set, the wind blowing a six-knot breeze from about N. N. W., there being no haze or fog, or other obstruction to the sight, except the dimness which follows the setting of the moon; how far can such a schooner be seen from the deck of another vessel steering about S. W. by S.?

Ans. Well, she'd ought to be seen three or four miles good, I should think.

3. (Objected to.) Is it customary for a sailing vessel to carry or show lights under such circumstances as are stated in the preceding interrogatory?

Ans. Well, I havn't. I should think it was not, without it was very thick. When it is quite dark I have generally carried a light, but not on starlight nights. The biggest majority of vessels

don't carry any. On a good starlight night you'll find more vessels without lights than with—more especially if there had been a moon the first part of the night; then they wouldn't be so apt to set them.

4. (Objected to.) Would or not the schooner steering E. by N. make any change in her course at about that point, with reference to Block island; and if any, what?

Ans. It would depend on which side of Block island he wanted to go. If the wind was from off shore and he was bound to Boston, he would have to bear more to the southward and eastward, to go outside of the island.

5. A propeller 575 tons burden and 175 feet long is sailing 10 knots an hour, going S. W. by S., the wind about N. N. W. She suddenly puts her helm hard a-starboard. How many points will she change her course in going half a mile? In other words, how far round will she turn?

Ans. I don't understand anything about steamers yet, and I shouldn't want to answer about anything that I wasn't practised in.

Cross-examination, by D. Thaxter, Esq.

X 1. How large a class of vessels have you commanded?

Ans. All the way from 130 to 200 tons, schooners and brigs.

X 2. (De bene esse.) Would she want to change her course as far as southeast, meaning the change referred to in your 4th answer?

Ans. No, sir; I should think not.

X 3. In what are called clear nights you can see farther some nights than others, can you not?

Ans. Yes, sir.

CYRUS T. FULLER.

Deposition of Francis B. Crowell, sworn to before C. P. Curtis, jr., esq., Commissioner, at Boston, on the twenty-fifth day of May, A. D. 1858, and filed in court on the 28th day of May, A. D. 1858.

1. Please state you name, age, and occupation, whether and how long you have been master of a vessel, and how long have you sailed from Boston to Philadelphia?

Answer. My name is Francis B. Crowell; my age is 40. My occupation is mariner. I have been master mariner fifteen years. I have run between Boston and Philadelphia the most part of that time—say twelve years. I am still engaged in running between these ports.

2. (Objected to.) A schooner of about 130 tons is about four miles south to southwest of Montauk Point, steering about E. N. E., in a clear starlight night in December, from a half an hour to

an hour after the moon has set, the wind blowing a six-knot breeze from about N. N. W., there being no haze or fog or other obstruction to the sight except the dimness which follows the setting of the moon; how far can such a schooner be seen from the deck of another vessel, steering about S. W. by S.?

Ans. I should think she might be seen between two and three miles.

3. (Objected to.) Is it customary for a sailing vessel to carry or show lights under such circumstances as are stated in the preceding interrogatory?

Ans. Not a general custom. No, sir.

4. (Objected to.) Would or not the schooner steering E. N. E. make any change in her course at about that point, with reference to Block island; and if any, what?

Ans. Not with the wind off shore, or she had it.

5. (Objected to.) If any change were to be made, which way would it be, bound to Boston?

Ans. The way the wind was, I should let her come pretty well up to Block island, and then steer E. N. E. for the Sound. E. N. E. is the course outside of Block island.

6. (Objected to.) What is the general course of vessels bound to Boston, with the wind off shore, north or south of Block island?

Ans. Southward of Block island.

7. (Objected to.) A propeller 575 tons burthen and 175 feet long is sailing 10 knots an hour, going S. W. by S., the wind about N. N. W. She suddenly puts her helm hard a-starboard. How many points will she change her course in going half a mile? In other words, how far round will she turn?

Ans. That is a hard question for me. I am not much acquainted with those boats.

Cross-examination.

X 1. (De bene.) Vessels do show lights under the circumstances stated in the 3d interrogatory, do they not?

Ans. It is very seldom the case. I have seen them.

X 2. (De bene.) Do not vessels under these circumstances, upon observing the approach of a steamer, show a light? Would you not do so under such circumstances?

Ans. If I was on deck myself I think I should show a light.

X 3. What class of vessels have you sailed in?

Ans. From 130 to 190 tons; schooners and a brig. I am now in a schooner.

Re-examination.

D. R. 1. (Objected to.) Do you know Captain Luther Studley and Daniel Baker; and if so, what is their employment?

Ans. I do know them both. Capt. Baker is master of a tow-boat in Boston harbor. Capt. Studley has been in the same business till lately.

X X 1. (De bene.) Did you ever know either of them to have anything to do with a vessel of over 200 tons?

Ans. I don't.

FRANCIS B. CROWELL.

Deposition of Griffith Morris, sworn to before C. P. Curtis, jr., esq., Commissioner, at Boston, on the twenty-sixth day of May, A. D. 1858, and filed in court on the 28th day of May, A. D. 1858.

1. What is your name, age, business and residence? How long have you followed the seas, and how many years as master? How long have you been in your present employment?

Answer. My name is Griffith Morris; my age is 47; I reside in East Boston; my business is master mariner; I command the tow-boat propeller "R. B. Forbes;" I have been in command of her about thirteen years; I have been master mariner about fifteen or sixteen years.

2. Do you know the propeller City of New York; and how long have you known her?

Ans. I do know the vessel; I have known her some three or four years.

3. What is your business with the steamer R. B. Forbes, and her size?

Ans. She is about 350 tons; she is a tow-boat and a wrecking boat; she is a relief boat, and goes to the aid of vessels in distress along the coast.

4. A propeller like the City of New York, of 575 tons, 175 feet long, is sailing in a smooth sea, about ten knots an hour, S. W. by S., wind about N. N. W.; she suddenly puts her helm hard a-starboard. How many points will she change her course in going half a mile, or, in other words, how far round will she turn?

Ans. Well, I should think she might turn perhaps eight points, or ninety degrees. It don't take a boat long to go a half a mile, and a vessel of that length don't pay off right away.

Cross-examination by D. Thaxter, Esq.

X 1. Suppose, that in the case put to you in the last question, there had been added to it these facts: that after the helm of the steamer had been put hard a-starboard, and she had gone on for a minute and a half or two minutes, her engine had been stopped and reversed; what would then have been your answer?

Ans. That I cannot answer without knowing which way her

propeller revolved; whether she had a right-handed or left-handed wheel.

X 2. Suppose it to have been a single right-handed wheel?

Ans. If the engine was stopped and the boat going through the water, the propeller would drag. The minute the engine is reversed the action of the propeller is to throw the stern over to port. While the propeller is reversed I don't think she could go more than a third as many points off as she would if she were going onward. The rudder has no effect while the propeller is reversed.

X 3. How would a single right-handed wheel steamer turn the quickest, on her starboard or larboard helm?

Ans. She would turn to starboard best, because she would carry a port helm to keep her straight. A right-handed wheel is one which turns from the centre of the ship towards the starboard side, or outboard. A left-handed wheel turns the other way.

X 4. Have you, as master of the R. B. Forbes, had occasion frequently to go round Cape Cod, through the Sound and to New York?

Ans. Yes, sir.

X 5. State what is the custom in regard to sailing vessels carrying or showing a light on the approach of a steamer on this route.

Ans. Well, I always expect a vessel to show me a light, and on a dark night I blow my whistle in order that they may do so. As a general thing they hoist lights.

X 6. Suppose a fore-and-aft schooner to be seen from the starboard bow of a steamer, the sailing vessel carrying sail so that her sails are in the line of vision—that is, so that her masts only are visible—how far can the schooner be seen in a clear starlight night, if you can tell; can you see different distances different nights, though clear and starlight?

Ans. That is about the hardest question to answer without knowing what the night was. There are some starlight nights that you can't see a great distance, and there are other starlight nights that you can see very far, according to the atmosphere. If a ship lies in the horizon, and it is a starlight night, you can see her a great distance; but if there is land or a bank of fog behind her, you cannot see far, though it is starlight.

A schooner, with her sails as is described, could not be seen very far. On a clear night, with a night-glass, you might see her a half or three-quarters, or perhaps a mile. It is the same as if she had no sails set. If a vessel is sailing at right-angles, so that you can see her sails, you can see her three times as far as if she was edgewise towards you.

My opinion, as to distance herein stated, is founded on the supposition that she is seen against the sky.

Direct Examination resumed by J. W. May, Esq.

D. R. 1. Suppose the steamer is sailing S. W. by south, and the schooner is sailing E. N. E. in a clear starlight night in December, the wind blowing off shore N. N. W., there being no haze or fog, and being so clear that the steamer's lights can be seen from the schooner from four to five miles; how far could the schooner be seen in such a case from the steamer?

Ans. That is a hard question to answer. In a dark, rainy night, if there is nothing but rain, you can see a light as far as you can at any time, and such lights as steamers carry might be seen from six to eight miles, and at the same time a schooner without a light couldn't be seen more than twice the length of the steamer; but on such a night as you speak of, a clear starlight night, if the schooner's hull was any height above the water she might be seen from half to three-quarters of a mile, provided there was nothing in the background.

GRIFFITH MORRIS.

Additional Testimony on the part of the Respondents.

Deposition of Alpheus Baxter, taken before C. P. Curtis, jr., esq., a Commissioner of the circuit court of the United States, in and for the district of Massachusetts, at Boston, on the twenty-eighth day of May, A. D. 1858, and filed in said court on the 8th day of June, A. D. 1858.

1. What is your name, age, residence and occupation, and how long you have followed the same?

Answer. My name is Alpheus Baxter; my age is 49; I reside at Dennis; I am a master mariner, and have been so nearly twenty-five years.

2. Whether or not have you been employed in the coasting trade between this port and any and what southern ports, and for how long a period?

Ans. I have always since I had command of a vessel been between here and Virginia and Delaware principally.

3. Suppose a sailing vessel to have the wind about N. N. West, to be about three or four miles south of Montauk Point; what would be her course providing she is bound to Boston, south of Block island?

Ans. I should probably steer E. N. E.

4. Whether or not in the route referred to in the last question, it is or is not the custom for sailing vessels to carry or show lights?

Ans. It is the custom with me, and I think with the biggest part of sailing vessels.

5. Suppose a fore-and-aft schooner to be approaching you in a clear starlight night, with her sails so trimmed that her masts only are in the line of vision; about how far could she be seen? and whether or not in nights which are called clear starlight nights, you can or cannot see further some nights than others?

Ans. Ordinary starlight nights, I should suppose from a half to a mile. There is a difference, and it would vary some.

The difference from a half a mile to a mile would express the difference in starlight nights.

Cross-examination by J. W. May, Esq.

X 1. Dou you mean to say that it is the custom of coasters south of Long island to carry or show lights in a clear starlight night?

Ans. As a general thing it is among the coasters.

X 2. Are there not as many that do not as do?

Ans. I couldn't tell; I judge by those I see.

X 3. In a December night, clear and starlight, with no fog and no haze, and the wind blowing a six-knot breeze from N. N. W. off shore, would you not expect the atmosphere to be very clear?

Ans. No clearer than any other N. N. West wind; we do look for clear weather from that quarter, for the clearest kind of weather. This was my first idea when I answered about seeing a half a mile to a mile.

X 4. Do you mean to say that under such a state of things you could not see the masts of a schooner more than a mile?

Ans. Not if she was heading right towards you.

X 5. Suppose you were going S. W. by S., and the schooner was going E. N. E.; how far could you see her?

Ans. That would fetch her sails a very little more on one side. It is pretty hard to say how much farther she could be seen under such circumstances. I intended the distances I gave to cover all cases where she was not broadside. In the case put, she couldn't be seen over a mile, in my opinion.

X 6. Then you mean to say that the vessels could discover each other no sooner if approaching each other at that angle, and with sails a little on one side, than if the sails could not be seen at all?

Ans. I can't tell you. It depends a good deal on the position in which the two objects are. I suppose if the sails were more on one side, the vessel could be seen a little farther.

X 7. How much farther?

Ans. It would make so little difference I couldn't tell.

A. BAXTER.

Deposition of Richard Ryder, taken before C. P. Curtis, jr., esq., Commissioner, at Boston, on the twenty-eighth day of May, A. D. 1858, and filed in court on the 8th day of June, A. D. 1858.

1. What is your name, age, residence and occupation, and how long have you followed the same?

Ans. My name is Richard Ryder; my age is 46; I reside in Cambridge; I am master mariner, and have been so for fifteen years.

2. Whether or not have you been employed in the coasting trade between this port and any and what southern ports, and for how long a period?

Ans. I have been in the coasting trade most of the time since I have been master, and all the time before, between here and all along the coast to Charleston, S. Carolina.

3. Suppose a sailing vessel to have the wind about N. N. West, and to be three or four miles south of Montauk Point; what would be her course providing she is bound to Boston, south of Block island?

Ans. I should steer E. N. East.

4. Whether or not in the route referred to in the last question, it is or is not the custom of sailing vessels to carry or show lights?

Ans. I think it is the custom.

5. Suppose a fore-and-aft schooner to be approaching you in a clear starlight night, with her sails so trimmed that her masts only are in the line of vision; about how far could she be seen? and whether or not in nights which are called clear starlight nights, you can or cannot see further some nights than others?

Ans. Probably a half a mile. There is a difference in starlight nights.

Cross-examination by J. W. May, Esq.

X 1. Do you mean to say that it is the custom of coasters south of Long island to carry or show lights in a clear, starlight night?

Ans. Generally, yes, sir. I mean the most part of vessels. I do myself, and I judge so from what I see and hear others tell.

X 2. Are there not as many that do not as do?

Ans. I should think not.

X 3. In a December night, clear and starlight, with no fog and no haze, and the wind blowing a six-knot breeze from the N. N. West, off shore, would you not expect the atmosphere to be very clear?

Ans. Yes, sir.

X 4. Do you mean to say that under such a state of things you could not see the masts of a schooner more than a mile?

5. Suppose a fore-and-aft schooner to be approaching you in a clear starlight night, with her sails so trimmed that her masts only are in the line of vision; about how far could she be seen? and whether or not in nights which are called clear starlight nights, you can or cannot see further some nights than others?

Ans. Ordinary starlight nights, I should suppose from a half to a mile. There is a difference, and it would vary some.

The difference from a half a mile to a mile would express the difference in starlight nights.

Cross-examination by J. W. May, Esq.

X 1. Dou you mean to say that it is the custom of coasters south of Long island to carry or show lights in a clear starlight night?

Ans. As a general thing it is among the coasters.

X 2. Are there not as many that do not as do?

Ans. I couldn't tell; I judge by those I see.

X 3. In a December night, clear and starlight, with no fog and no haze, and the wind blowing a six-knot breeze from N. N. W. off shore, would you not expect the atmosphere to be very clear?

Ans. No clearer than any other N. N. West wind; we do look for clear weather from that quarter, for the clearest kind of weather. This was my first idea when I answered about seeing a half a mile to a mile.

X 4. Do you mean to say that under such a state of things you could not see the masts of a schooner more than a mile?

Ans. Not if she was heading right towards you.

X 5. Suppose you were going S. W. by S., and the schooner was going E. N. E.; how far could you see her?

Ans. That would fetch her sails a very little more on one side. It is pretty hard to say how much farther she could be seen under such circumstances. I intended the distances I gave to cover all cases where she was not broadside. In the case put, she couldn't be seen over a mile, in my opinion.

X 6. Then you mean to say that the vessels could discover each other no sooner if approaching each other at that angle, and with sails a little on one side, than if the sails could not be seen at all?

Ans. I can't tell you. It depends a good deal on the position in which the two objects are. I suppose if the sails were more on one side, the vessel could be seen a little farther.

X 7. How much farther?

Ans. It would make so little difference I couldn't tell.

A. BAXTER.

Deposition of Richard Ryder, taken before C. P. Curtis, jr., esq., Commissioner, at Boston, on the twenty-eighth day of May, A. D. 1858, and filed in court on the 8th day of June, A. D. 1858.

1. What is your name, age, residence and occupation, and how long have you followed the same?

Ans. My name is Richard Ryder; my age is 46; I reside in Cambridge; I am master mariner, and have been so for fifteen years.

2. Whether or not have you been employed in the coasting trade between this port and any and what southern ports, and for how long a period?

Ans. I have been in the coasting trade most of the time since I have been master, and all the time before, between here and all along the coast to Charleston, S. Carolina.

3. Suppose a sailing vessel to have the wind about N. N. West, and to be three or four miles south of Montauk Point; what would be her course providing she is bound to Boston, south of Block island?

Ans. I should steer E. N. East.

4. Whether or not in the route referred to in the last question, it is or is not the custom of sailing vessels to carry or show lights?

Ans. I think it is the custom.

5. Suppose a fore-and-aft schooner to be approaching you in a clear starlight night, with her sails so trimmed that her masts only are in the line of vision; about how far could she be seen? and whether or not in nights which are called clear starlight nights, you can or cannot see further some nights than others?

Ans. Probably a half a mile. There is a difference in starlight nights.

Cross-examination by J. W. May, Esq.

X 1. Do you mean to say that it is the custom of coasters south of Long island to carry or show lights in a clear, starlight night?

Ans. Generally, yes, sir. I mean the most part of vessels. I do myself, and I judge so from what I see and hear others tell.

X 2. Are there not as many that do not as do?

Ans. I should think not.

X 3. In a December night, clear and starlight, with no fog and no haze, and the wind blowing a six-knot breeze from the N. N. West, off shore, would you not expect the atmosphere to be very clear?

Ans. Yes, sir.

X 4. Do you mean to say that under such a state of things you could not see the masts of a schooner more than a mile?

Ans. That is a different thing. I answered first under the supposition of its being a common night. This question supposes an extra clear night. This would make perhaps a quarter of a mile difference.

X 5. Suppose a vessel sailing S. W. by S. discovers a schooner about one point on her starboard bow, the schooner sailing about east with the wind N. N.W.; how far ought the schooner sailing east to be seen from the deck of a vessel of 600 tons, sailing S.W. by S., in a clear starlight night?

Ans. I should suppose probably a mile and a quarter.

Direct Examination resumed by D. Thaxter, Esq.

D. R. 1. (Objected to.) Would that not depend upon how the sails of the approaching vessel were trimmed?

Ans. I gave my answer considering the position of the sails; how they were trimmed under such circumstances.

RICHARD RYDER.

Deposition of Solomon Howes, taken before C. P. Curtis, jr., esq., Commissioner, at Boston, on the twenty-eighth day of May, A. D. 1858, and filed in court on the 8th day of June, A. D. 1858.

1. What is your name, age, residence, and occupation, and how long have you followed the same?

Ans. My name is Solomon Howes; my age is 33; I am master mariner, and have been so about ten years.

2. Whether or not have you been employed in the coasting trade between this port and any and what southern ports, and for how long a period?

Ans. Between here and the Delaware and Chesapeake bays most of the time since I have been master.

3. Suppose a sailing vessel to have the wind about N. N. West, and to be about three or four miles south of Montauk Point; what would be her course, providing she is bound to Boston, south of Block island?

Ans. I should say E. N. East.

4. Whether or not in the route referred to in the last question it is or is not the custom for sailing vessels to carry or show lights?

Ans. It is.

5. Suppose a fore-and-aft schooner to be approaching you in a clear starlight night, with her sails so trimmed that her masts only are in the line of vision; about how far could she be seen? and whether or not in nights which are called clear starlight nights, you can or cannot see further some nights than others?

Ans. Well, I should say in an ordinary starlight night, from a half to three quarters of a mile. There is a difference in starlight nights.

Cross-examination by J. W. May, Esq.

X 1. What do you mean by saying that it is the custom to carry lights?

Ans. I mean that most of vessels carry lights.

X 2. What proportion?

Ans. Well, I should say seven-eighths.

X 3. Of what vessel are you commander?

Ans. Of the steamer Joseph Whitney, a side-wheel steamer, running between here and Baltimore.

X 4. Is that your route from Delaware to Boston, by Block island?

Ans. Yes, sir.

SOLOMON HOWES.

Deposition of Peleg Howes, taken before C. P. Curtis, jr., esq., Commissioner, at Boston, on the first day of June, A. D. 1858, and filed in court on the 8th day of June, A. D. 1858.

1. What is your name, age, and occupation; how long have you followed the seas as master; and whether or not you have been between here and any southern ports; and during what period and in what class of vessels?

Answer. My name is Peleg Howes; my age is 48; I am a master mariner, and am in command of the steamer "City of New York," and have been in command of her one year. I have been master mariner twenty-three years. Between 1840 and 1852 I ran a packet between Boston and Philadelphia; and from 1852 to 1857 I commanded ships to different parts of the earth.

2. Suppose the steamer "City of N. York" to be going at the rate of ten knots per hour, or making a half mile in about three minutes, should see a vessel a half or three quarters of a mile off, and should then have her helm hove hard a-starboard, and should run for a minute and a half or two minutes, and then have her engine stopped and reversed; how much would she get off before striking the vessel, supposing the steamer to have to make the whole distance?

Ans. I can only give my opinion, and shall have to calculate how much she would go off in the first minute and a half, and then how much she would come to with her propeller reversed. I should say that under the case put, she would go off between two and a half and three and a half points, not over three and a half.

3. Suppose in what is called a clear starlight night, a fore-and-aft schooner is approaching you in such a manner, and with her sails so trimmed that the masts only are in the line of vision; about how far could she be seen, and whether or not in what are called clear starlight nights, you can see farther some nights than others?

Ans. Not over three quarters of a mile. It depends on the atmosphere. There are clear nights in which you cannot see so far

Ans. That is a different thing. I answered first under the supposition of its being a common night. This question supposes an extra clear night. This would make perhaps a quarter of a mile difference.

X 5. Suppose a vessel sailing S. W. by S. discovers a schooner about one point on her starboard bow, the schooner sailing about east with the wind N. N.W.; how far ought the schooner sailing east to be seen from the deck of a vessel of 600 tons, sailing S.W. by S., in a clear starlight night?

Ans. I should suppose probably a mile and a quarter.

Direct Examination resumed by D. Thaxter, Esq.

D. R. 1. (Objected to.) Would that not depend upon how the sails of the approaching vessel were trimmed?

Ans. I gave my answer considering the position of the sails; how they were trimmed under such circumstances.

RICHARD RYDER.

Deposition of Solomon Howes, taken before C. P. Curtis, jr., esq., Commissioner, at Boston, on the twenty-eighth day of May, A. D. 1858, and filed in court on the 8th day of June, A. D. 1858.

1. What is your name, age, residence, and occupation, and how long have you followed the same?

Ans. My name is Solomon Howes; my age is 33; I am master mariner, and have been so about ten years.

2. Whether or not have you been employed in the coasting trade between this port and any and what southern ports, and for how long a period?

Ans. Between here and the Delaware and Chesapeake bays most of the time since I have been master.

3. Suppose a sailing vessel to have the wind about N. N. West, and to be about three or four miles south of Montauk Point; what would be her course, providing she is bound to Boston, south of Block island?

Ans. I should say E. N. East.

4. Whether or not in the route referred to in the last question it is or is not the custom for sailing vessels to carry or show lights?

Ans. It is.

5. Suppose a fore-and-aft schooner to be approaching you in a clear starlight night, with her sails so trimmed that her masts only are in the line of vision; about how far could she be seen? and whether or not in nights which are called clear starlight nights, you can or cannot see further some nights than others?

Ans. Well, I should say in an ordinary starlight night, from a half to three quarters of a mile. There is a difference in starlight nights.

Cross-examination by J. W. May, Esq.

X 1. What do you mean by saying that it is the custom to carry lights?

Ans. I mean that most of vessels carry lights.

X 2. What proportion?

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1. What is your name, age, and occupation; how long have you followed the seas as master; and whether or not you have been between here and any southern ports; and during what period and in what class of vessels?

Answer. My name is Peleg Howes; my age is 48; I am a master mariner, and am in command of the steamer "City of New York," and have been in command of her one year. I have been master mariner twenty-three years. Between 1840 and 1852 I ran a packet between Boston and Philadelphia; and from 1852 to 1857 I commanded ships to different parts of the earth.

2. Suppose the steamer "City of N. York" to be going at the rate of ten knots per hour, or making a half mile in about three minutes, should see a vessel a half or three quarters of a mile off, and should then have her helm hove hard a-starboard, and should run for a minute and a half or two minutes, and then have her engine stopped and reversed; how much would she get off before striking the vessel, supposing the steamer to have to make the whole distance?

Ans. I can only give my opinion, and shall have to calculate how much she would go off in the first minute and a half, and then how much she would come to with her propeller reversed. I should say that under the case put, she would go off between two and a half and three and a half points, not over three and a half.

3. Suppose in what is called a clear starlight night, a fore-and-aft schooner is approaching you in such a manner, and with her sails so trimmed that the masts only are in the line of vision; about how far could she be seen, and whether or not in what are called clear starlight nights, you can see farther some nights than others?

Ans. Not over three quarters of a mile. It depends on the atmosphere. There are clear nights in which you cannot see so far

as you can on other clear nights. I predicate my answer as to the case put, though, on a very clear night.

4. Suppose a fore-and-aft schooner to have the wind N. N. W., and to be sailing on her course east, or a little south of east; how would her sails usually be trimmed?

Ans. She would have a four-point sheet. Her sails would be four points off from close hauled.

5. Suppose a fore-and-aft schooner would be sailing with her sails close hauled, and should then put off one, two or three points for the purpose of clearing another vessel; would or would not there ordinarily be any change made in her sails?

Ans. I should think not.

6. Suppose the wind to be N. N. W., and a fore-and-aft schooner to be about 3 or 4 miles south of Montauk Point, bound to Boston; what would be her course to pass Block island, if she were going south of it?

Ans. East-northeast, with the wind north-northwest.

7. Whether or not is it customary for sailing vessels on this route to carry or show a light?

Ans. It is a customary thing for vessels to carry a light. Seven vessels out of eight carry a light. That is my impression.

Cross-examination by J. W. May, Esq.

X 1. Your experience since 1840 has been with brigs, barks, ships and steamers, has it not?

Ans. It has.

X 2. How do you come to the opinion stated in your 2d answer? Please explain.

Ans. I suppose the steamer would fall off under a full head of steam, and with her helm hard a-starboard, during the first quarter of a mile, five points. Then I should suppose, that with the engine reversed, the steamer's head would come to the starboard two points in the same distance. That is my opinion.

X 3. Would she come to two points with helm hard a-starboard?

Ans. Yes, sir, helm hard a-starboard would help her to come to starboard.

X 4. Would the helm hard a-starboard help her to come to, while she is still going ahead?

Ans. It will not unless she had a stern-board or stern-way. While the ship is stopped it would. I don't mean to say that she would come to starboard with the wheel reversed and the helm hard a-starboard until her headway is stopped. It would prevent her falling off, and as soon as her headway was stopped she would begin to come to starboard, with the propeller still turning back.

X 5. Do you mean to say that in a very clear starlight night you could not see the masts of a schooner of 130 tons more than three-quarters of a mile?

Ans. I do.

X 6. In a starlight night in December, with the wind off shore from N. N. W., you would expect the clearest atmosphere, would you not?

I should; about the clearest.

X 7. Suppose the wind is north, and the course of the schooner east, how would her sails be trimmed?

Ans. She would be sailing two points free.

X 8. Referring to your 6th answer, would it not be prudent to keep her off a little more east?

Ans. I say that E. N. E. would clear Block island. I think I should not steer any more east. That is my opinion.

X 9. Would it be imprudent?

Ans. No, it would not be imprudent. There is no danger to leeward.

PELEG HOWES.

Deposition of Jeremiah Schellinger, taken before C. P. Curtis, jr., esq., Commissioner, at Boston, on the first day of June, A. D. 1858, and filed in court on the 8th day of June, A. D. 1858.

1. What is you name, age, and business, and how long have you followed the same, and whether or not are you attached to the steamer "City of New York," and in what capacity, and how long have you been so?

Answer. My name is Jeremiah Schellinger; my age is forty-four; I am a Delaware pilot; I have been so since 1825; I am the Delaware pilot of the steamer "City of New York," and have been in that capacity since last September; I make the whole passage every time in the steamer.

2. Suppose the steamer "City of New York" to be going at the rate of ten knots per hour, or making a half mile in about three minutes, should see a vessel a half or three quarters of a mile off, and should then have her helm hove hard a-starboard, and should run for a minute and a half or two minutes, and then have her engine stopped and reversed; how much would she get off before striking the vessel, supposing the steamer to have to make the whole distance?

Ans. Well, I suppose the steamer running full speed would swing off five points in two minutes; after the wheel was reversed and turning back, I think she would stop falling off; as soon as she begins to gather stern-way, she will come to the other way.

3. Suppose in what is called a clear starlight night, a fore-and-aft schooner is approaching you in such a way and with her sails so trimmed that the masts only are in the line of vision; about how far could she be seen, and whether or not in what are called clear starlight nights you can see farther some nights than others?

Ans. I don't think you could see her over a half a mile at the

furthest; sometimes we can see further than at others, and we call them best starlight nights.

4. Suppose a fore-and-aft schooner to have the wind N. N. W., and to be sailing on her course east, or a little south of east, how would her sails usually be trimmed?

Ans. They ought to be slacked off four points, beyond close hauled.

5. Suppose a fore-and-aft schooner should he sailing with her sails close hauled, and should then put off one two, or three points, for the purpose of clearing another vessel; would or would not there ordinarily be any change made in her sails?

Ans. When I keep a vessel off to clear anything, I never slack my sheets.

6. Whether or not is it customary for sailing vessels, sailing between this and southern ports, to carry or show a light?

Ans. It is; we pass more vessels with lights a flying than we do without lights.

Cross-examination, by J. W. May, Esq.

X 1. Referring to your 2d answer, do you mean to say that the vessel will continue to fall off, but less and less until she stops, and when she begins to gather stern-way she will begin to come to?

Ans. Yes, sir, if the wheel is kept hard a-starboard all the time.

JEREMIAH SCHELLINGER.

This cause came on to be heard at the May term of this circuit court, A. D. 1858, on the said transcript of the record of the district court, and on the additional evidence aforesaid, and was argued by counsel; the cause was thence continued to this present term. And now, after mature deliberation thereon had, and upon consideration thereof, it is ordered, adjudged, and decreed by this court that the decree of the district court in this cause be and the same is hereby reversed; and that said Judah Baker, Augustus Peterson, Charles H. Soule, George D. Arrington, Samuel Knight, Charles E. Daggett, Uriah B. Fiske, Nathan Fiske, Luther Fiske, Elias Darling, Jacob Studley, Luther Crowell, Sears Crowell, Edward Crowell, Elnathan Crowell, Hiram Crowell, Calvin Baker, Elbridge Baker, Julia Ann Crowell, Alexander Baxter, Levi Crowell, William Garfield, Montville Garfield, Hannah Crowell and Henry Fuller, owners of the schooner "George Engs," do recover against the steamship "City of New York," her tackle, apparel and furniture, the sum of seven thousand and seventy-six dollars and eighty-four cents, as and for their damages, (the said sum including the estimated value of the property lost by the collision aforesaid, at the date of such collision, with additional damages equal to six per cent. per annum thereon from the time of said loss to the present

time of judgment,) together with their costs of suit, taxed at three hundred and sixty-eight dollars and ninety-six cents.

And on the third day of December, A. D. 1858, the following claim and prayer of appeal was filed and read in open court, namely:

JUDAH BAKER and als., Libellants,
vs.
THE STEAMSHIP "CITY OF NEW YORK," Alfred Winsor, Claimant and Respondent.

Circuit Court, Oct. T., 1858.

The above named respondent, in behalf of himself and the other owners of said steamship as their agent, conceiving himself and the said parties for whom he acts as agent as aforesaid to be aggrieved by the final decree entered on this third day of December, in said term, in the above entitled cause, doth for himself and as agent for said other owners as aforesaid, appeal therefrom to the Supreme Court of the United States, and he prays that this his appeal may be allowed, and that a transcript of the record, proceedings and evidence in the cause, duly authenticated, may be sent to the said Supreme Court.

By D. THAXTER,
Proctor.

And the court doth thereupon order, that said appeal be allowed. On the same third day of December, the respondents gave good and sufficient security to prosecute their appeal with effect, and to answer all damages and costs if they shall fail to make good their appeal, which security was approved by the court, and ordered to be placed on file.

A true record.

H. W. FULLER, *Clerk.*

UNITED STATES OF AMERICA,
Massachusetts District, ss.

I, Henry W. Fuller, clerk of the circuit court of the United States for the first circuit, Massachusetts district, do hereby certify that the foregoing is a true copy of the record and of all proceedings in the cause of Judah Baker, Augustus Peterson, Chs. H. Soule, Geo. D. Arrington, Samuel Knight, Charles E. Daggett, Uriah B. Fisk, Nathan Fisk, Luther Fisk, Elias Darling, Jacob Studley, Luther Crowell, Sears Crowell, Edward Crowell, Elnathan Crowell, Hiram Crowell, Calvin Baker, Elbridge Baker, Julia Ann Crowell, Alexander Baxter, Levi Crowell, William Garfield, Monteville Garfield, Hannah Crowell and Henry Fuller, libellants in admiralty, vs. The Steamship "City of New York," Alfred Winsor, claimant.